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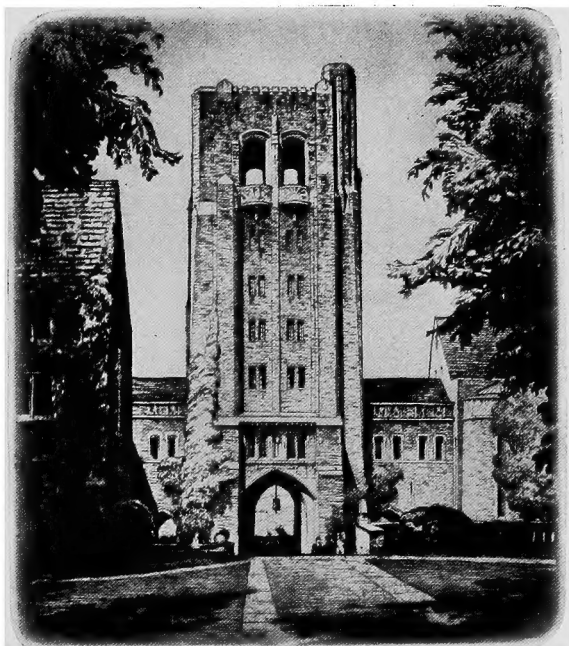
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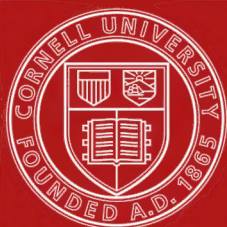


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THE
PUBLIC STATUTES
OF
NEW BRUNSWICK,

PASSED IN THE YEAR 1854,

TOGETHER WITH THOSE UNREPEALED BY THE REVISED STATUTES.

VOLUME II.

PRINTED UNDER THE AUTHORITY OF AN ACT OF THE LEGISLATURE.



FREDERICTON, N. B.

J. SIMPSON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1854.

L.A.H. 0114

FREDERICTON, NEW BRUNSWICK:

PRINTED BY JOHN SIMPSON, AT THE ROYAL GAZETTE OFFICE,

KING STREET.

PREFACE.

In preparing the Second Volume of the Provincial Statutes, my first object was, as directed by the Publication Act, to separate the Public from the Local and Private Statutes, not only as regards those passed last Winter, but those which remained unrepealed by the Revised Statutes, and introduce none but of a public nature. The two great Railways of the Province,—“European and North American,” and “Saint Andrews and Quebec,”—although both originating with private Companies, I have considered and treated as public, the Government having since become bound to take Stock therein, and being entitled by Law to assist in their management.

The Statutes passed contemporaneously with the Revised Statutes, not having been printed and circulated in the usual manner, have, for that reason, although last enacted, the first place in the Volume.

Order of time, in arranging the unrepealed Statutes, had also, in some measure, to be sacrificed to their classification.

The whole arrangement of this Volume has been made to harmonize as closely as possible with that of the Revised Statutes.

It may occasion some surprise that so large a Volume of Public Acts should issue after the revision of such a mass of Statutes ; but it will be remembered that besides those of last Winter's Session, which were passed contemporaneously with the Revised Statutes, this Volume contains all such as relate to the practice of the Law, passed from the earliest period, in the room of which the Law Commissioners proposed their amendments, the consideration of which was postponed from that Session. Besides these were all the Acts relating to the Ordinance, Elections, Savings' Banks, College, and Grammar Schools, Railways, &c., which could not, from their peculiar character, safely undergo revision. The only Acts omitted by the Law Commissioners were four or five of a brief and comparatively unimportant nature.

I beg to call more especial attention to the Errata at the end of both Volumes. I found it impossible, with all the assistance I had from my Secretary, W. H. Needham, Esquire, to make the Index to the former Volume more complete, owing to the hurry of printing so large a quantity of matter within so short a period of time, besides being compelled to put it to press immediately after the issue of the last Chapter. It was found very difficult, also, to make an Index to the Revised Statutes, which had already been compressed into a more enlarged kind of digest, without the danger of nearly reproducing the whole work. Some errors have crept into the second Volume also, notwithstanding the most diligent and often repeated examinations of Mr. Needham and myself, jointly as well as separately given. It is not indeed surprising that such should occur, as we had to *glean* these Laws from a mass of Statutes enacted, amended, repealed, revived, or confirmed, and scattered about in a number of books, in the most loose manner, ranging over a period of nearly seventy years, and, with the exception of the old first Volume, and the Acts of 1849 and 1850, without revision or consolidation.

After finishing the revision or consolidation of the first Volume, a large arrear of public business in the Gazette Office, greatly increased by the recent short Session, has delayed the issue of this Volume. The printing of the third, to consist of the Local and Private Acts, cannot, I fear, be commenced until the present Session is over.

A Table of Statutes considered obsolete, together with an Appendix, containing two highly important Public Treaties, and the Act of Parliament giving effect to the first one, will be found at the close of this Volume. The mode of giving up Criminals fleeing from justice to or from the United States or this Province is by this Act regulated.

Should any other error be detected, as my authority only extends to the republication of these Acts, the actual state of the Law will remain unaltered. If, however, the most laborious research can preserve the public from the inconvenience of any such errors, reliance may be placed on the accuracy of this Edition.

W. B. KINNEAR.

SECOND REPORT OF THE COMMISSIONERS.

*To His Excellency Sir Edmund Walker Head, Baronet, Lieutenant Governor,
and Commander in Chief of the Province of New Brunswick, &c. &c. &c.*

MAY IT PLEASE YOUR EXCELLENCY,

Since our first Report made in accordance with Your Excellency's Commission, and the Act of Assembly, we have given attention to those matters required by the Act, which we had not time to investigate on the former occasion, and also to the finishing of the revision; and now submit this second Report, together with the printed revision of the Statutes, and six Chapters on Equity Law Procedure.

Although we anticipated, when the first Report was presented, that we had nearly finished that part of our duty which related to the revision of the Acts of Assembly, we found, on further investigation, a large amount of labour in arrear in that department alone; and while superintending the printing of the Chapters accompanying our first Report, we proceeded to complete the codification of all that remained, with the exception of those Acts which required to be infused into the Common Law and Chancery Reform, and such as are deemed necessary to form a second Volume.

We have prepared also for the Revised Volume a Chapter containing a Chronological List of all the Acts repealed by our Codification.

We have to observe that we have received a very small number of replies to the printed Queries, which we long since forwarded to the Legislators, the Judges, Officers of the Courts, Barristers, and Magistrates, throughout the Province. The Chief Justice, the Master of the Rolls, Judge Parker, and Judge Street, the Advocate General, the Hon. Thomas Gilbert, the late Hon. Wm. Crane, and Richard Carman, Edward Smith, Wm. N. Buckerfield, John T. Williston, and D. L. Dibblee, Esquires, are the only Gentlemen who have sent in answers.

After the utmost consideration that we have been able to give to the subject, we are constrained to differ from the view taken by the three Judges and Master of the Rolls, who have favoured us with their valuable suggestions on almost every head of our enquiry, relative to a very important and leading feature of reform, namely, the union of the Court of Chancery with the Supreme Court, and have unanimously decided on proposing such a union, according to the plan prepared and now submitted, under the Title of "*Supreme Court, Equity side.*"

From this difference of opinion, and the importance of the change from the existing mode of administering Equity both in this country and in England, we feel it to be necessary to enter somewhat at large into the considerations which have induced us to adopt this view.

We think there is no one branch of our Jurisprudence in which we are so deficient as in our Courts of Appeal. In the Supreme Court we have four Judges, who, from a sound legal education and long experience in the Common Law Courts, are prepared at any time to settle principles of Law, after the case has undergone a thorough sifting at *Nisi Prius*. Whatever at times may be the doubts entertained of the soundness of a decision thus given, the general feeling among the Profession has always been that of confidence in their finally matured judgment, especially when each Judge has distinctly applied his mind to the particular case, and given his reasons for the opinion expressed. From this Court there is an appeal to the Court of Error, consisting of the Head of the Government, and his Council, which is open to some grave objections. The matters of error are usually merely technical, and often for that reason, and their extreme nicety, the more abstruse; but they may, by means of a Bill of Exceptions, and in some other cases presented on the Record, become substantial; in which case it is obvious there is an appeal from the best Court in the country to one singularly formed for the review of matters decided by such a Court. In ordinary cases it is plain that the judgment of this Court is liable to be reversed by the decision of two or more professional gentlemen, at the very time in full practice, whose judgment may be heated by contests with the Judges, and by the violence of political debates; while it is

possible the professional portion of this Court may one day consist of the Attorney and Solicitor Generals alone, and either, or even both of whom may have been Counsel in the cause appealed from, and consequently disqualified from acting. If these two gentlemen, supposing them to be qualified to sit, had the decision of an important case in their hands, or the non-professional members of the Council were to take part in it, and the Governor were unacquainted with the ordinary principles of Law, it must seem evident that such an appeal would be a mere mockery.

In the Court of Chancery we have on the Bench a sound lawyer, and a gentleman thoroughly acquainted with Equity Jurisprudence in all its branches. From any Order or Decree made by him there is an appeal to the Governor as Chancellor, in which case it becomes necessary to seek the assistance of one or more of the Common Law Judges, upon whom, in general, from the peculiar circumstances, the responsibility of affirming or reversing the Decree rests. Now here is perhaps as great an anomaly as in the case of a Review by the Court of Error; for the appeal is from the best judgment on points of Equity Law and practice, often more complicated and abstruse than the Common Law, to the judgment of those which, although the best in their own department, and when at the Bar undoubtedly good in this also, has become by disuse necessarily liable to be strongly influenced by that which weighs strongest on the most learned and the most upright minds, a delicacy in deciding against the views of one they deem more thorough than themselves in the knowledge of the principles they are called upon to review.

We conceive an appeal under such circumstances relieves the Equity Judge from none of his heavy responsibilities, while it throws a portion of them on those who feel themselves in a certain sense not fully adequate to undertake them.

The result is, that in some of the heaviest cases which can be conceived—such as the redress of breaches of trust and of frauds of the most peculiar character, the issue of injunctions to stay the hands of parties and even the Supreme Court from intermeddling with property or proceeding with suits, and requiring the literal performance of contracts—they all come to be decided substantially by a single individual, and that decision

given under a peculiar species of Law, which, although in general better defined than is supposed, is yet spoken of as exercised through "*the conscience of the Court*," and consequently must afford a pretty extensive latitude of interpretation. In cases of fraud especially, Courts of Equity undertake to govern their decision by a much broader construction of what constitutes fraud than Courts of Law.

In strong contrast with these vast powers wielded by a single individual, we find the Supreme Court performing its branch of jurisprudence by the instrumentality of four Judges, with the aid of Juries and previous *Nisi Prius* trials, and in cases where upon Common Law principles the wrong and the remedy are both of a well defined and comparatively certain description, while the importance of the demand can never exceed that of any litigated in a Court of Equity.

There can be no doubt that strong as the opinion is in favour of the manner of administering Equity Law by the present learned Judge, there is a degree of want of confidence in the Court because of the deficiency experienced in no other of a proper *test* of its soundness ; and as our Province advances in population and prosperity, with the occurrence of vacancies which will often be filled by men chosen probably more from regard to their political than their professional standing and character, it can scarcely be expected that the people will submit to be deprived of their property by the decision of a single Judge, or to be obliged to cross the Atlantic for the expensive judgment of the Judicial Committee of the Privy Council.

We propose, therefore, as a remedy for these evils, to transfer the whole jurisdiction of the Court of Chancery to the Supreme Court, giving the Master of the Rolls, on the Bench of the latter Court, a position of precedence in accordance with his present one, and conferring on that Court all the powers of Chancery, *without a fusion* of the principles or mode of administration belonging to the respective Courts. We ask particular attention to this last observation, because we think there is some confusion of ideas on this subject, which have served to create a prejudice against the union of the Courts, when in fact we alter nothing but the instrumentality by which Equity Law is for the future to be administered ; and

that chiefly for the purpose of giving power to, and confidence in all that is already so valuable in its principles.

We propose that any one of these Judges shall decide a case in Equity in the first instance, with an appeal to the whole five Judges in Term; and that, agreeably to the present practice in a suit at law, there should be no other, as we conceive there can be no better, appeal than from the first decision in this branch of jurisprudence, to the five Judges in the Supreme Court. For a long time to come we think the country will be satisfied with this one substantial appeal; but if in some singular case there should still be a desire to press the matter further, the Judicial Committee of the Privy Council in England, it seems to us, should be the end of that true scale of ascent by which the best legal judgment can be had.

We do not propose this as the best arrangement under any circumstances, but as the best which this country in its present circumstances can offer; nor are we insensible to the argument that where five Judges of the Supreme Court will have to turn their attention to so many branches of the Law, they cannot be expected to reach the same eminence as when the sole time and attention of one individual has been bestowed on a particular department. Yet it must be remembered that when professional gentlemen of standing now reach the Bench, it is from a scene of laborious practice in every branch of our jurisprudence; and the knowledge thus acquired must necessarily be rendered more complete by constant practice as Judges, and be adequate to any effort put forth from the Bar. In the United States there have been very eminent Judges, and yet almost all of them have acted as Judges in Courts where, not only Law and Equity, but Admiralty Law, have been thus united; and the union of the two former powers extends to a very large majority of the State Courts. In 4 Kent's Coms. 163, Note (C) it is remarked that there are only four States which have Courts of Equity separate from the Supreme or Circuit Courts.

Even in England, where there are not less than seven Equity Judges, and where Courts of Appeal abound, the union of the Court of Chancery with the Courts of Common Law was, at the time of the last Report of the Chancery Commissioners, under deliberation, and only postponed as the subject of further consideration.

Mr. Justice Story in his first Volume on Equity, referring to one of the English Superior Courts, observes that "in some of the States of the Union, distinct Courts of Equity are established; in others the powers are exercised concurrently with Common Law Jurisdiction by the same Tribunal, being at once a Court of Law and a Court of Equity, somewhat analagous to the Court of Exchequer in England." And since the passing of a Statute towards the close of the Reign of George III., authorizing the Chief Baron of this Court, or one of the assistant Justices, to sit alone and hear causes in Equity, with an appeal to the House of Lords, our proposed change bears a still closer resemblance to the practice of the Exchequer, a Court having both a Common Law and Equity side, with at the same time a more urgent necessity for the change, and with a greater advantage as respects this country, in having an appeal to the full Bench of Judges.

We have not overlooked the difficulties which have been urged against this amalgamation, as to the Sittings of the Judges, and intermingling Jury trials with Equity hearings. But we trust we have been enabled to meet these difficulties by distinctly defining the powers of the single Judge, and those of the Court, which we have endeavoured to effect by always requiring one Judge to act where the Master of the Rolls now acts, and the Court to adjudicate where the Chancellor is now called upon when he sits as a Judge in Appeal. Where a Jury is to be summoned for any Common Law interlocutory enquiry, the time and place of its sitting must necessarily be for the discretion of the Judge who requires the aid of a Jury to assist him in giving Equity; and when the case is to be heard by evidence taken at the hearing in open Court, the same may be done as pointed out more at large in our accompanying details, either at one of the monthly Sittings at Fredericton, or at any of the Nisi Prius Courts where the greatest number of the witnesses reside, or the Court shall direct. Whether evidence is to be taken as now practised before a Master, or in open Court, will be decided when the points to be proved are settled by the Judge as hereinafter noticed; and if a case is to be heard at a Nisi Prius Court, it is to be after the Jury causes are over, when the Judge after a full hearing may at once decide, or take time to do so in all important cases as at present.

We regret the inconvenience this change may occasion to the present Judges of the two Courts, in obliging them to turn their attention more directly to departments of jurisprudence, to which, since reaching the Bench, they have been unaccustomed ; but while in this and in some other respects hereafter adverted to, their duties will be increased, we believe from the various changes we have introduced in the practice of both Law and Equity, greatly simplifying, and in many instances entirely discontinuing the use of many portions of it, those duties will be in those respects diminished. Nor are we without the hope that from the strength and support which will be experienced by a consultation and judgment of five learned men, with the increasing confidence of the profession and the country, they will ere long be satisfied with this alteration.

We have maturely considered the important question which, in England, has of late occupied so much attention, that of abolishing the office of Master in Chancery, and should have been prepared to imitate the example of that country ; but from the vast difference between their judiciary system and ours, we have been unable to recommend any change for the better without a corresponding change in that department. It is to be remembered that in the Court of Equity alone in the Mother Country there are seven Judges, who under the new system, with each a Chief Clerk having powers corresponding generally to those of a Master, and a second Clerk, are able to accomplish all that was formerly done by the Masters, besides taking the evidence in Causes, in order that they may form a better judgment, as in Common Law Courts, of the value of the testimony.

Although much of this evidence will by our plan be taken before the Judge on the hearing, with all the advantage of a decision on what he himself hears and sees, it would we think be quite impossible for the five Judges to perform any more duties ; and we cannot see that we can be better served in those cases in which Masters will still be required, than by Gentlemen already well accustomed to their business. At the same time it will be seen the Court will have power to order any Barrister, if no Master live convenient, or for other good cause, to report on certain matters, and also scientific persons when necessary ; besides it will not be possible with the pro-

posed changes unnecessarily to protract matters; nor has the evil ever existed in this country, although the system is the same, to any thing like the extent prevailing in England.

In referring to the improvements we have proposed in the Equity procedure, a careful perusal of the Code now submitted might perhaps suffice without further observation; but we think it desirable to notice, in addition to the explanations already given, a few leading particulars. In the first place, we have prepared our proposed alterations in such a form that if they meet the approbation of the Legislature, *nothing further will be necessary than to incorporate them* at once with the revision of the Acts of Assembly in their appropriate place.

It will be seen also that we have been indebted to the Imperial Act passed in 1852 for many of the improvements here introduced, while we were at the same time pleased to observe a number of the changes of that Act, and the Rules passed in accordance therewith, to have been long since anticipated by the valuable Rules made during the tenure of office of the present Master of the Rolls.

It may be necessary to mention that without the preparation of an entire code of practice, which would be a work of enormous magnitude, and which we were not called upon to attempt, it was not possible to do more than improve or reform the present system; wherever therefore the Rules here presented do not embrace all cases which may occur, the existing practice of the Court of Chancery in this Province must be resorted to.

The whole is however subject to being further modified, for the purpose of extending the proposed provisions, by Rules which the Judges are authorized to frame from time to time, as has been extensively done in England since the passing of the late Statute for improving the Practice in Chancery.

In one respect we have altogether departed from the old mode of proceeding, by commencing every suit, unless where an Injunction is sought, with a Summons briefly indicating the object of the suit, so as to give the party the opportunity before a heavier expense is incurred of settling with the plaintiff.—This is in conformity with the practice at Common Law, which we think is wisely adapted to prevent a debtor from being plunged at once into an expensive suit before, by notice, he has been warned of the consequences.

The proceeding also against a person out of the limits of the Province is, we think, very tedious and expensive, when it is considered that a Decree made in such cases is subject to being reconsidered within certain periods of time.

In imitation of the late Common Law Procedure Act passed in England, we at once substitute for the Act 3 W. 4, c. 19, (which makes an order of appearance served on *non-residents* necessary to entitle the plaintiff to a decree) the service of the summons itself, heretofore held insufficient because out of the jurisdiction of the Court, and instead of proceeding against an *absent person*, (under the Act 48 G. 3, c. 2) by Bill filed, subpoena issued, affidavit of party having absconded to avoid service, or being twelve months out of the Province after cause of action accrued, an order for appearance founded on proof of this fact, and this order published in the Royal Gazette and posted up where he last dwelt,—we authorize the Judge to make the order for appearance on affidavit of the absence of any person, non-resident or otherwise, and of prima facie grounds for filing a Bill, and to order the Bill *pro confesso*, if no appearance be entered at the expiration of the time mentioned in the order. We are of opinion that this more simple course, together with preserving, under some modification, the right of the defendant to have the decree reconsidered, will be sufficient to protect any absent party from injustice. At the same time there is nothing in the case of an absent debtor more than that of a non-resident, to prevent a plaintiff from having his summons served wherever the party may be found out of the jurisdiction, and proceed according to the manner we have pointed out. The last Act also affords no remedy where it could not be shown that the defendant had absconded to avoid process or had left before the cause of action accrued.

As every defendant may be required to answer the Bill of the plaintiff on oath, we think the latter should be subject to the same practice, especially since in conformity with the late English Statute, the Bill is no longer to be hypothetical, but a plain narrative of facts. Both these improvements are the more important, as heretofore what a party stated in his Bill could seldom be made evidence against him, from its garbled and often untrue statements, which in fact was a part of the system now happily at an end in England. We have there-

fore followed the English change in this respect, as well as in giving power to the defendant to exhibit interrogatories to the plaintiff in the same manner and for the same ends as the plaintiff requires an answer from him, and without the great expense and delay of a cross Bill.

It was well known to the practitioners in Chancery, that the plaintiff may on the hearing, and with or without evidence obtained, after issue joined, take such portions of the defendant's answer as may establish any part of his case, and as this was never done till the hearing, it was not possible precisely to know how far proof might be required on the broad grounds stated in the Bill and answer, which obliged the parties often to seek for evidence beyond what might be necessary, for fear of a deficiency in a matter so essential. To obviate this difficulty, and make it clear to all parties what is required to be proved, we have proposed a practice hitherto unknown in any of our Courts, but long existing, we believe, in Scotland, by which a Judge shall have power, after issue joined, in presence of the Counsel on both sides, to settle what facts are admitted and what denied, leaving only those not admitted by either side to be established by evidence.

It may also be properly observed here, that we have abolished what is called a rehearing after a decree, because all that is gained by a rehearing may be had on an appeal; and as a Bill of Review is only used after a decree has been enrolled, and a supplemental Bill in the nature of such Bill before enrolment, for newly discovered facts, we have also abolished those proceedings, an entry of the material facts of a cause in a regular Decree Book having been substituted by us for the enrolment; at the same time giving power to the Court to hear any newly discovered facts on the appeal, which can only be done on such a Bill, or such supplemental Bill, along with any other defect in the proceeding objected to; and by these changes disposing of a large amount of delay and expense.

We should have been glad to enter somewhat at large into an explanation respecting a great variety of improvements to be found in the Chapters we now present to Your Excellency, but fearing to be wearisome, we shall conclude our remarks on this branch of the Law, merely observing in addition, that in various proceedings in the Master's Office, in the foreclosure

and sale of Mortgages, in cases where Infants are interested, in Partition of Lands, besides sundry Forms, we have endeavoured by a great number of alterations to make the Practice in Equity procedure more plain and simple, and far less expensive.

We have nearly completed the preparation of various improvements in the Practice and Proceedings at Common Law, which we hope shortly to submit to Your Excellency.

We have the honor to be

Your Excellency's obedient servants,

W. B. KINNEAR, *Solicitor General*.

J. W. CHANDLER,

CHARLES FISHER.

Fredericton, 4th January, 1854.

THIRD REPORT OF THE COMMISSIONERS.

*To His Excellency Sir Edmund Walker Head, Baronet, Lieutenant Governor
and Commander in Chief of the Province of New Brunswick, &c. &c. &c.*

MAY IT PLEASE YOUR EXCELLENCY,

In our second Report which we had the honor to lay before Your Excellency in the early part of the month, we stated the progress we had made since the last Session of the Legislature in the various duties of our Commission ; and we also accompanied it with the drafts of the Bills to abolish the Court of Chancery, confer upon the Supreme Court the necessary Equity Jurisdiction, and to simplify Equity Practice.

The six Chapters upon Equity Procedure were all that we could complete in time to be presented to Your Excellency with that Report, though the various subjects which we now submit for the consideration of Your Excellency and the Legislature had been long and maturely weighed, and the process of reduction to a form fit for Parliamentary action nearly completed.

The codification of the Public Acts is completed, and if there is any omission in that department, we shall be able to supply it before the various Chapters into which it has been divided pass through the Legislature, and while we are arranging the Private and Local Acts, which will form a second Volume.

In our first Report we referred to the principal alterations and amendments we have suggested in the Acts codified, but our object then being more to simplify and render intelligible the Statute Law than to amend it, reform was necessarily a secondary consideration.

During the past year we have been enabled to complete the revision, and carefully consider the different subjects of enquiry prescribed by the Legislature, and in this investigation we have discovered various defects in the Law, the amendments to supply which we propose to engraft upon the different Chapters in their appropriate places. This was the first part of our

duty, which in the language of the Act is stated to be, "as well to consolidate, simplify, revise, and arrange in one uniform code, the Acts of Assembly, incorporating therein such alterations and amendments as we should deem necessary."

We were also required "to report on the procedure of the Courts of Law and Equity, and to suggest such alterations as might appear to us, or a majority of us, best adapted to lessen expense and advance justice; and especially to take into consideration the Law of Evidence as now existing in this Province, and the propriety of altering the same."

This enquiry compelled us to survey the whole condition and machinery of the Courts of Law and Equity; to ascertain their adaptation to the present state and wants of the country, and their capacity to satisfy the legitimate demands of a progressive people; to examine into the present mode of conducting suits, and practice of the Courts in relation thereto; to consider the ingredients of an ordinary trial and its incidents; to examine the Jury system; and especially to consider the state of the Law of Evidence and the propriety of altering it; and to enquire how far the present practice was likely to secure substantial justice to the litigant parties.

We have endeavoured calmly and deliberately to consider these several important questions, and divesting ourselves of all professional bias, to weigh well the changes and improvements which others have effected in these departments of Jurisprudence. We are of opinion that whilst every thing social, industrial, and political in this Province is rapidly improving according to the requirements of modern civilization, the practice of our Courts, and the administration of justice generally, retain too many features of a barbarous age, and too much of its ancient gothic character, and we think nothing but a series of radical reforms will adapt them to our age and country.

The two great ends which the Legislature have aimed at were to lessen expense and advance justice. From the earliest period of the history of the Mother Country, the Founders of our system of Jurisprudence have aimed at the same result.

We have already given the reasons which induced us to recommend the union of the Courts of Law and Equity, and we now recommend the abolition of the Inferior Courts of Common

Pleas, except in the City and County of Saint John, and the establishment of Assizes twice every year in each County of the Province, and that the General Sessions should be held at the same time. This will relieve the people from one Grand and one Petit Jury in every County except York, Charlotte, and Saint John, and two in York and Charlotte. This plan will require all Criminal and Civil Suits to be tried at the Circuit Courts over which a Judge of the Supreme Court would preside. The Sessions could either at the same time in a different apartment transact their ordinary local, fiscal, and municipal business, or adjourn to a more convenient day. They would, as well as the Grand Jury, receive the advice and instruction of the presiding Judge; and the ordinary Criminal business of a Circuit, with the supervision of the County Accounts, might be disposed of in the time generally occupied by a Grand Jury under the present system, who are often delayed by the local officers. In incorporated Counties the duties of the Grand Jury will be confined to the Criminal business of the Circuit Court, and the business of the Session reduced within a narrow compass. Should the Legislature determine to retain the Inferior Courts, we recommend that either party to a suit should have a right to remove it into the Supreme Court at any time before the trial.

We have excepted the City and County of Saint John, because we believe that in a large and commercial community such a local tribunal for the settlement of controversies of small amount advisable.

We propose to transfer the Jurisdiction of the Court of Marriage and Divorce to the Supreme Court. Suits relating to marital rights are not of frequent occurrence, but we think the Supreme Court alone should be the tribunal for litigating every question of importance in this Province.

We believe these alterations will not increase the business of the Supreme Court, as may be at first supposed. The simplicity of legal proceedings, the abolition of so much that is technical, and provision for the disposal by a Judge at Chambers of many trifling questions which were hitherto required to be done before the Court in banc, will greatly lessen the ordinary routine business of the Term. We also propose that a single Judge should sit on the Saturday and Monday before

every Term for the hearing of common motions. This is the plan of the Bail Court in England. These improvements in the transaction of the business of the Court will allow ample time for the hearing and decision of all questions which may be of sufficient importance to require the consideration and judgment of five Judges.

The next subject of our enquiry was the improvement of the Jury system. The Grand Juries at the Sessions, whose duties are mostly of a fiscal character, should in our opinion be elected with the other Parish Officers by the rate payers, if the present Sessions system continue; as we propose to abolish it, we have recommended the best mode of selection that we could discover. Either the Sheriff must continue to exercise his discretion in the choice of Jurors, or they must be selected by ballot. If the choice is to be discretionary, we think that it will be more safely vested in the Sheriff, than in any plan of dividing the responsibility. Some such system has been adopted in Nova Scotia with very doubtful utility, if the recent accounts of occurrences at their Courts are at all to be relied upon.

We propose that the several Juries for every Court shall be drawn before the opening of the Court by the Sheriff at the Office of the Clerk of the Peace, from the different Parishes of every County according to population, making it imperative to select at least one from each Parish. To secure as good a class of men as we could under this system, we prescribe the qualification of a Juror to be the possession of £100 of real or personal property, and require the Sheriff annually in the month of January to make a Jury list of such persons; the present qualification of a Grand Juror being £25 of real, or £100 of personal property, and of a Petit Juror a freehold of the annual value of forty shillings, or personal property to the amount of £50. In incorporated Counties the list is to be prepared by the Secretary Treasurer, who is to perform the duties assigned to the Clerk of the Peace in other Counties.

We provide that every Petit Juror shall be paid five shillings per day for his attendance at Court. We believe this provision will secure the prompt performance of all the duties of a Juror. This is to be a charge on the County funds; but as we direct that all fines imposed in the County for any purpose, and which hitherto formed part of the Casual Revenue,

should be paid to the County Treasurer, we think that the compensation of the Jurors will not add much to the local burdens. For the same purpose we also provide for the payment of a Jury fee for the trial of every cause.

By the present practice a Special Jury is only obtainable on application to the Court in Term; as this cannot be done till after issue joined, it frequently leads to delay. When the cause is brought to issue between a Term and a Circuit in any County, it must be tried by a common Jury, or stand over till another Circuit. We authorize either party to apply to the Clerk of the Peace at any time, and on reasonable notice being given to the adversary to strike a Special Jury.

The most difficult branch of this part of our enquiry was as to the propriety of reducing the number of Jurors in civil trials, and what proportion should be required to agree upon a verdict. The Judges concur in opinion that in civil causes unanimity in Juries is not indispensable; and the Chief Justice and Mr. Justice Parker are favourable to a reduction of the number. Though trial by Jury is an institution as ancient as the Common Law, we believe that in England and the United States, countries retaining that institution and the principles of the Common Law, no change has been made in this department of the administration of justice.

We however recommend that the number of Jurors should be reduced to seven, except for the trial of a capital felony, and in civil cases that five should render a verdict, after deliberating two hours; if after six hours deliberation five cannot agree, we propose that they should be discharged. In all criminal cases we require unanimity. It appears to us that this will remedy a great defect in our present mode of administering justice, and it is restrained within safe limits, as more than two thirds must always agree to render a verdict.

We also recommend the abolition of the system of depriving Juries of meat, drink, or any other comfort, till they agree upon their verdict. This is a senseless provision and a relic of barbarism which, if not abolished by modern legislation, modern ingenuity has always evaded.

The next subject of our enquiry was the state of the Law of Evidence. Our attention was especially directed thereto by the Law authorizing our appointment. The Law of Evidence

in force in this Province differs very little from what it was in the first settlement of the country, whilst in Great Britain it has continually undergone great changes. With us the slightest legal interest disqualifies the witness. In England for a long time pecuniary interest, apparent or real, has been no ground of excluding a witness from giving testimony, but the greatest change effected has been to make parties witnesses for and against themselves. This practice has been in operation in the County Courts for a number of years, and has worked well. It has recently been introduced into all the Courts, and with entire success. Though at first it encountered much disfavour and opposition from some of the Judges, its success has been so complete that it has vindicated its title to a permanent position in the Jurisprudence of the Mother Country, and we believe it has been extended to Scotland. In our opinion it is the most beneficial change that can be made. If in a populous community it will work well, the reason is stronger among a limited population, where the character of every man is known. Its adoption appears to us necessary to satisfy an important principle, that in obtaining evidence the best source should always be resorted to, and we believe no measure will so tend to the ascertainment of the real merits of the controversy as the examination of the parties who must know the facts.

In the case of husband and wife, we regard as confidential all that may be said by either when alone to the other, unless personal safety requires the disclosure. We think the true interest of the marriage relation will be better consulted by not permitting the wife to give evidence for or against her husband, and her exclusion from the witness box under such circumstances will be a positive privilege conferred upon her, of which she should not be deprived by the apparent advantage of adopting a different rule.

The next subject of our enquiry was the Practice of the Courts of Common Law. We have not attempted to prepare a new code ; had our Commission embraced that object it would have been impossible in the short time allotted to us to have performed a work of the kind.

We were required "to suggest such alterations as might appear to us, or a majority of us, best adapted to lessen expense and advance justice." We have drawn a number of Chapters

accompanying this Report, containing such alterations as in our opinion will best secure that result.

In preparing these Chapters we have availed ourselves of the very important amendments made in the practice of the Law by the English Common Law Procedure Act of 1852. We have also considered the improvements which have been made in several of the United States, having adopted of either what we deemed beneficial, modified some things, and introduced such other improvements as our own experience, or the judgment of others, has induced us to think will work well; and to prevent any difficulty in determining any particular question that may arise, we have provided that the present practice of the Court shall be taken to supply any defect or case omitted.

We propose that hereafter there shall be only four forms of actions; three personal—CONTRACT, TORT, and REPLEVIN; and one mixed—EJECTMENT.

CONTRACT to include *Account, Assumpsit, Covenant, Debt*, and for *Penalties*.

TORT to include *Trespass, Trespass on the Case, Trover*, and *Detinue*.

The action of Replevin we have already stated, is greatly improved, and will in all probability hereafter be the remedy generally adopted to recover personal property.

It will be observed that the two first forms of personal actions actually comprise the most ancient division known to the Law as *ex contractu* and *ex delicto*, and the various forms into which they have been subdivided are the refinements of more recent times.

Ejectment will in future be in reality a mixed action, for in addition to the recovery of the land, the plaintiff may also recover for *mesne profits*, which are made to include trees or any other thing of value savouring of the realty, taken from the land. The defendant is also permitted to recover compensation for improvements made on the land under certain circumstances. This is a modification of the American system of betterments so called.

We propose to abolish all the fictions in the action of Ejectment, and make it a plain common sense controversy between real persons. Whenever the defendant claims title under a

Deed adjudged fraudulent, we authorize a suggestion of that fact on the record, and that after five years from the trial it shall be conclusive evidence of the fraud against all persons claiming under the same title. The law relating to the operation of conveyances of land, made when in the adverse possession of another, is absurd, and the rule should be repealed, and the question for trial in future be, in whom is the legal title, irrespective of any such technical jargon. We have prepared simple forms to enable the parties to the action to state their claim and defence intelligibly.

We authorize the Sheriff after the sale of land in possession of the defendant to put the purchaser into possession without any action therefor. We have also simplified the proceedings in Dower.

We have abolished Bills of York and Common Capiases, and have provided that every action shall be commenced by a Summons, which will plainly indicate to the defendant what is the nature and amount of the plaintiff's claim, and the costs.

In Bailable actions the first process is a Capias, which only differs from the Summons in the provision for arresting the body.

With respect to the Law of Arrest we propose to restrict the right to hold to bail to cases where the plaintiff swears that he believes the defendant designs to leave the jurisdiction of the Court, and that he will thereby lose his debt unless the defendant is held to bail; *as the Law now stands*, in actions upon contracts the plaintiff can arrest his debtor by an affidavit of the debt only.

In our opinion imprisonment for debt must finally be abolished, but we do not think the country prepared for so great a change, and if it were, it could not be safely adopted without a series of important amendments in the whole Law of debtor and creditor. We have therefore gone as far in that direction as in our opinion the circumstances of the country and the state of the Law would at present warrant. We also propose that no female should be arrested for debt on mesne or final process; her sex should exempt her from the operation of a law which partakes of a penal character.

We have simplified the proceedings and lessened the expense of bailable actions, and abolished special bail. In future the

bail bond given to the Sheriff will be the only undertaking required from bail. We have made such provisions with regard to it as will preserve the security to the plaintiff, without exposing unwary or too credulous bail to be entrapped.

As the Law now stands parties to Bills of Exchange and Promissory Notes must all be sued in separate actions, their liability being distinct; this in cases of several indorsers greatly increases the costs; no plan could be devised more likely to defeat the object of the holder of the note than one which so largely adds to the charges upon the promisor. Oftentimes the expenses of insolvent parties have swallowed up the amount realized from the parties able to pay, and in many instances during the last commercial depression, the plaintiff and defendants, after struggling a while in the network of paper securities became bankrupt together. We propose that they may be included in one action, and if any defend, provision is made for trying the issue without inconvenience. When a party to a contract made in the Province resides abroad, we have provided for serving him with a summons, and trying the question here.

We have abolished all the useless statements, averments, and verbiage contained in the declaration, and have prescribed the necessary forms which state the plaintiff's claim as concisely as possible. An examination of the precedents we have given, is necessary to understand and appreciate this great change and improvement in the conduct of a suit. The declaration in slander which heretofore has been so great a stumbling block to the pleader, is stripped of all its absurdities, and now will merely put in issue the speaking of the words and their defamatory meaning.

Having so far innovated upon the old declaration, we have no difficulty in proposing to abolish the whole system of special pleading. An Act passed in 1850 effected a great alteration in that branch of the Law, and it is somewhat strange that the very exceptions in that Act are the class of persons and cases in whose favour the principles of special pleading were first relaxed in Massachusetts, clearly proving that there is no real consistency in the advocates of that theory. Lord Coke condemned the whole system upwards of two hundred years ago in these words—"When I diligently consider the course of our

“books of years and terms, from the beginning of the Reign
“of Edward the Third, I observe that more jangling and
“questions grow upon the manner of pleading, and exceptions
“to form, than upon the matter itself; and infinite causes lost
“or delayed for want of good pleading.”—*Coke on Litt. page*
303.^a

Instead of a variety of special pleas or notices, we propose that there be but one plea—the general issue—in all actions, under which the defendant may give in evidence any defence whatever available in law to defeat the action, which may be met by the plaintiff by evidence on the trial according to the peculiarities of every case. The only notice required is of the set off, which must be given when the defendant intends to avail himself of that defence.

We propose to retain the general demurrer, but its use will be of rare occurrence.

We provide for every description of amendment at any stage of the cause, to enable litigants to obtain a trial on the merits. Parties may in like manner be added or struck out. The Court or a Judge on the trial, or in vacation, permitting such amendment, being authorized to impose such terms as to costs or otherwise as are agreeable to justice.

According to the present practice the law appears to delight in technicalities, and important rights are exposed to be sacrificed to a quibble; we think such a state of things a disgrace to the jurisprudence of an enlightened people. The most efficacious remedy for the evil is to be found in permitting amendments to be liberally made at any time in the progress of the cause. Oftentimes when parties have finally recovered, the delay and expense incident to so refined a system are as ruinous as defeat. Motions, demurrers, arguments, and new trials, are too often the creatures of this system, and learned Judges are gravely employed in discussing artificial distinctions and refinements instead of the real merits of the case.

Although we believe new trials will hereafter be less frequent, we propose to place on them the following restrictions:—When the Jury give a unanimous verdict, and the Court are of opinion substantial justice has been done, we think it should not be disturbed. When the verdict is set

aside on the sole ground of its being against evidence, a second verdict should not be set aside for the same cause; and after three verdicts for the same party, there should be an end of litigation. If three Juries after full deliberation arrive at the same conclusion, it is only reasonable to infer that substantial justice has been done.

We have also prescribed a course of practice in Term, which will expedite the hearing of motions for new trials, and generally secure their being argued in the first Term after the trial takes place.

We destroy all the legal devices by which a judgment could be overturned, and take away the right of appeal in this country from the decision of the Supreme Court, leaving the party his appeal to the Judicial Committee of the Privy Council.

In England notes and other securities for money are allowed to be taken in execution; after full consideration we do not recommend the introduction of that course, the state of our country, and the relative value of such securities, do not warrant it; but we propose that certain kinds of *choses in action* may be assigned in the same manner as promissory notes.

We have narrated some of the principal improvements proposed in the practice of the Courts, but it will be necessary to examine the Chapters accompanying this Report, to understand or appreciate the nature or extent of these improvements. It has been our principal desire to simplify all the proceedings, that we might attain the two fold requisites of our commission,—diminution of expense, and advancement of justice,—and we believe these amendments will make an important stride in that direction.

We have enlarged the power of the Surrogate, for the purpose of bringing justice as near to every man's door as possible, in the following respects;—by authorizing him to appoint guardians to infants, where the estate does not exceed five hundred pounds; to assign dower in certain cases; to enable him to provide for the enforcement of contracts made by deceased persons for the sale of lands to a certain amount, where there are infants; and to enable him to compel Executors to convert the real estate into personal for the payment of debts.

We have made a few improvements in the practice of the

Court of Exchequer, which we conceive to be immediately necessary, but we have had no time to consider the whole practice of that Court with a view to its general improvement ; nor could we give any attention to the present state of the Admiralty Court, or that portion of the practice of the Ecclesiastical Law which extends to this Province.

We cannot close this Report without again expressing our estimation of the very valuable services rendered the Commission by our Secretary, William H. Needham, Esquire ; a great part of his time has been devoted to that service ; without his assistance we could not have accomplished so much in the ordinary duties of the revision, and he has contributed largely to the materials of many of the important improvements we have made in the practice of the Law.

We submit these amendments and improvements to Your Excellency, for the purpose of being laid before the Legislature, satisfied they will receive the grave consideration their importance demands. We are not insensible to the many inaccuracies a careful examination of the work will disclose ; it is incident to the labour and difficulty of weeding from the mass of Statutes and legal proceedings we have been compelled to revise, the verbiage which has accumulated for a series of years ; we therefore anticipate a full measure of indulgence may be extended to us, in the earnest hope that our united exertions may inspire increasing respect and confidence in the Judicial Institutions of our country.

We have the honor to subscribe ourselves

Your Excellency's most obedient servants,

W. B. KINNEAR, *Solicitor General.*
J. W. CHANDLER,
CHARLES FISHER.

Fredericton, 24th January, 1854.

ACTS OF FIRST SESSION OF 1854.

UNREPEALED ACTS.

REVIVED ACT.

TABLE OF OBSOLETE ACTS.

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| 13 V. c. 47.—An Act to consolidate and amend the Laws to provide for the administration of Justice in the Inferior Courts of Common Pleas and General Sessions of the Peace, | 384 |
| 16 V. c. 22.—An Act for altering the time of holding one of the Courts of General Sessions of the Peace and Inferior Court of Common Pleas in the County of Westmorland, | 390 |
| 14 V. c. 16.—An Act to provide for the better payment of Petit Jurors attending the several Courts of Record in this Province, | 391 |
| 14 V. c. 26.—An Act to revive and continue an Act to provide for the better payment of Petit Jurors attending the several Courts of Record in the Province, | 393 |

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| 12 V. c. 41.—An Act to amend the Laws relating to Juries, | 393 |
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| 5 W. 4, c. 43.—An Act to regulate the inspection of Dry and Pickled Fish for home consumption and for exportation, | 412 |
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Province of New Brunswick.

ANNO DECIMO SEPTIMO VICTORIÆ REGINÆ.

CAP. I.

An Act relating to the Ordinary Revenue.

Section 1.—Continuation of the Ordinary Revenue.

Passed 1st May 1854.

Be it enacted, &c.—1. The provisions of Chapter 14, intituled “Of the Ordinary Revenue,” in the Revised Statutes, passed in the present Session of the Legislature, are hereby continued and declared to be in force from and including the thirty first day of December next until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty five.

CAP. II.

An Act to legalize the payment of the Funded Debt of New Brunswick.

Section 1.—Payment of balance of Loan sanctioned.

Passed 1st May 1854.

WHEREAS under and by virtue of the power and authority given by the Act of the General Assembly of this Province made and passed in the sixth year of the Reign of Her present Majesty, intituled *An Act to facilitate the negotiation of a Loan to pay off the Public Debt*, and of the Act in amendment thereof made and passed in the eighth year of Her present Majesty's Reign, intituled *An Act to amend an Act to facilitate the negotiation of a Loan to pay off the Public Debt*, a Loan to the extent of seventy thousand pounds sterling was made by the Bank of British North America to the Government of this Province, upon the terms, conditions, stipulations, and securities in the said Acts described: And whereas on the thirty first day of December in the year of our Lord one thousand eight hundred and fifty three, there remained unpaid four instalments of five thousand pounds sterling each of said Loan, payable respectively on the first September one thousand eight hundred and fifty four, one thousand eight hundred and fifty five, one thousand eight hundred and fifty six, and one thousand eight hundred and fifty seven: And whereas His Excellency the Lieutenant Governor, taking into consideration the present flourishing state of the public finances, and deeming it to be for the best interest of the Province to pay off the said instalments, and having obtained the consent of the said Bank to receive the same, His Excellency the Lieutenant Governor, by and with the advice and consent of the Executive Council, did on the said thirty first day of December last, pay off and discharge the balance of the said Loan so remaining unpaid as aforesaid, amounting in the whole to the sum of twenty thousand pounds sterling:—

Be it therefore enacted, &c.—1. That the payment of the balance of the said Loan to the said Bank of British North America, being the four instalments of five thousand pounds sterling each, which would become due on the first of September one thousand eight hundred and fifty four, one thousand eight

hundred and fifty five, one thousand eight hundred and fifty six, and one thousand eight hundred and fifty seven, amounting in the aggregate to the sum of twenty thousand pounds sterling, is hereby fully sanctioned and declared to be legal, any thing in the said recited Acts to the contrary notwithstanding.

CAP. III.

An Act to appropriate a part of the Public Revenue to the payment of the Ordinary Services of the Province.

Section.

1. Grants for Ordinary Services.

Section.

2. Money how drawn.

Passed 1st May 1854.

Be it enacted, &c.—1. There be allowed and paid out of the Treasury of the Province, for the services hereinafter mentioned, the following sums, viz:—

To the Chaplain of the Legislative Council in General Assembly, twenty pounds.

To the Chaplain of the House of Assembly, twenty pounds.

To the Sergeant at Arms attending the Legislative Council in General Assembly, fifteen shillings per diem during the present Session.

To the Sergeant at Arms attending the House of Assembly, fifteen shillings per diem during the present Session.

To the Clerk of the Legislative Council in General Assembly, two hundred pounds in full for his services during the present Session.

To the Clerk of the House of Assembly, two hundred pounds for his services during the present Session.

To the Clerk Assistant of the Legislative Council in General Assembly, one hundred pounds in full for his services during the present Session.

To the Clerk Assistant of the House of Assembly, one hundred pounds for his services during the present Session.

To the Doorkeepers attending the Legislative Council and House of Assembly, ten shillings per diem during the present Session.

To the Messengers attending the Legislative Council and Assembly, seven shillings and six pence per diem during the present Session.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, ten thousand pounds towards the encouragement of Parish Schools, agreeably to a Law of this Province.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, a sum not exceeding one hundred pounds, to be applied in rewarding persons for apprehending Deserters from Her Majesty's Land Forces within this Province, provided that no greater sum than five pounds be paid for the apprehension of any one Deserter.

To the Librarian of the Legislative Library, one hundred pounds for his services to the end of the present Session.

To the Keeper of the Light House at Point Le Preau, eighty five pounds.

To the Keeper of the Light House at Partridge Island, eighty five pounds.

To the Keeper of the Light House on Campo Bello, one hundred pounds.

To the Keeper of the Beacon Light, eighty five pounds.

To the Commissioners of Light Houses in the Bay of Fundy, the following sums to pay for the services for the year one thousand eight hundred and fifty four :—

To the Keeper of the Light House on Gannet Rock and his Assistants, two hundred and ten pounds.

To the Keeper of the Light House on Thrum Cap, Quaco, one hundred and ten pounds, and an additional sum of thirty six pounds to enable him to pay an Assistant.

To the Keeper of the Light House on Machias Seal Island, one hundred and thirty pounds, and an additional sum of thirty six pounds to enable him to pay an Assistant.

To the Keeper of the Light House in the Harbour of Saint Andrews, forty pounds.

To the Keeper of the Light House on Cape Enrage, eighty five pounds.

To the Commissioners of Light Houses in the Gulf of Saint Lawrence, one hundred pounds to provide for the salary of a Keeper for the year one thousand eight hundred and fifty four at the Light House on Point Escuminac.

2. All the before mentioned sums of money shall be paid by the Treasurer of the Province, by Warrant of His Excellency

the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of Her Majesty's Executive Council, out of the moneys in the Treasury, or as payment may be made at the same.

CAP. IV.

An Act to appropriate a part of the Public Revenue for the services therein mentioned.

Section.

1. Grants for special services.

Section.

2. Money how to be drawn.

Passed 1st May 1854.

Be it enacted, &c.—1. There be allowed and paid out of the Treasury of this Province the following sums, to-wit :—

To Thomas Dunphy, John Russell, and Hugh M'Graw, Overseers of the Poor of the Parish of Blackville, in the County of Northumberland, six pounds thirteen shillings and four pence, amount due the late William Babcock, an old Soldier of the Revolutionary War in America.

To Archibald M'Intyre, of the Parish of Hard vicke, in the County of Northumberland, Son of Sarah M'Intyre, the Widow of Duncan M'Intyre, an old Soldier of the Revolutionary War in America, the sum of one pound thirteen shillings.

To the Trustees of the Baptist Seminary at Fredericton, the sum of two hundred and fifty pounds towards the support of that Institution.

To James Boyd, Esquire, the sum of two hundred and fourteen pounds ten shillings, being the amount of pay and usual allowance for travel for the years one thousand eight hundred and fifty one, one thousand eight hundred and fifty two, and part of one thousand eight hundred and fifty three, to which he would have been entitled had he not been kept out of his Seat.

To the Reverend James Quin, Dennis Bradley, and Charles Bradley, Managing Committee of the Roman Catholic School in the Town of Saint Andrews, the sum of thirty pounds to assist them in the support of the said Institution.

To the Committee of the Infant School at Fredericton the sum of fifty pounds in aid of that Institution.

To Deborah Ann Lugin, Widow of the late George K. Lugin, many years King's Printer in this Province, the sum of fifteen pounds to aid her in her present destitute circumstances.

To William Watts the sum of ten pounds for his services as Usher and Cryer of the Supreme Court.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of fifty pounds, in aid of individual subscription, towards the support of a Female School for Poor Children in Fredericton.

To Jacob Kollock, an old Soldier of the Revolutionary War, the sum of fifteen pounds to aid him in his present destitute circumstances.

To Sarah Cyphers, Widow of an Officer of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Abigail M'Kay, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Hannah M'Donald, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Mary Harned, Widow of the late Alward Harned, many years Doorkeeper of this House, the sum of ten pounds.

To Elizabeth Whitehead, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to assist her in her present destitute circumstances.

To Ann M'Donald, Widow of the late Surgeon M'Donald, of the New Jersey Volunteers, the sum of ten pounds to aid her in her present destitute circumstances.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of sixty pounds towards the support of the Roman Catholic School at Bathurst, in the County of Gloucester.

To the Trustees of the Wesleyan Academy at Mount Allison, Sackville, the sum of three hundred pounds towards the support of that Institution.

To Michael White the sum of one hundred pounds for his services as Clerk in the Office of the Clerk of the Pleas for the past year.

To the Seamen's Friend Society, lately incorporated in the City of Saint John, a sum not exceeding one thousand five hundred pounds in aid of the benevolent objects of that Institution.

To the President of the Northumberland Agricultural Society the sum of one hundred and twenty five pounds and two pence to reimburse that Society balance of the cost of importing an Entire Horse from Britain last year, pursuant to the Resolution of this House of the third day of May last.

To the President of the Saint John County Agricultural Society the sum of seventy three pounds to reimburse that Society balance of the cost of importing an Entire Horse from Britain.

To the President of the Victoria County Agricultural Society the sum of forty nine pounds ten shillings to reimburse that Society balance due on the cost of importing an Entire Horse from the United States.

To the President of the Kent Agricultural Society the sum of sixty one pounds to reimburse that Society balance expended in the importation of an Entire Horse from Britain.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds to improve the Public Wharf in the Parish of Saint Stephen.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being the sum of twenty-pounds to aid William Chappel, of Bay Verte, in running a suitable Vessel as a Packet weekly between that place and Charlottetown, Prince Edward Island, during the present year; the same not to be drawn until it be satisfactorily certified to the Government that the work has been faithfully and properly performed during open water.

To Simon Hebert the sum of one hundred pounds to compensate him for improvements made on a lot of Land which the Government have laid out for the Town Plat of Edmundston, as recommended by a Select Committee.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of fifty pounds in aid of the Newcastle Grammar School, taught by Robert Falconer, B. A., for the year ending October one

thousand eight hundred and fifty four, to be paid on its being certified to the satisfaction of His Excellency in Council that such School has been efficiently taught.

To John Fraser, Gauger and Weigher at Miramichi, the sum of eight pounds eleven shillings and six pence for his services in that capacity the past year.

To William Napier, Gauger and Weigher at the Port of Bathurst, the sum of eight pounds four shillings and six pence for his services in that capacity the past year.

To Charles Lloyd, Locker, Searcher and Weigher at Dalhousie, the sum of three pounds two shillings for his services in gauging dutiable articles.

To Thomas Johnson, of Buctouche, in the County of Kent, the sum of twelve pounds ten shillings and seven pence to reimburse an excess of duties on Chairs imported by him, agreeably to the Report of the Committee of Trade.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds towards building a Public Landing at the Grindstone Quarry at New Bandon, and for placing mooring Anchors and Buoys for the safety of Vessels resorting thereto; the same not to be drawn from the Treasury until it shall be satisfactorily certified to His Excellency the Lieutenant Governor in Council that a similar sum has been subscribed, paid, and expended by a Commissioner or Commissioners to be appointed for that purpose.

To Cudlip and Snider, of the City of Saint John, Merchants, the sum of twenty three pounds three shillings and nine pence to reimburse duties paid on a quantity of Yellow Metal and Spikes imported into Saint John in one thousand eight hundred and fifty three, and exported from thence in the August of that year to Quebec.

To Martin Cranney, Gauger and Weigher at Chatham, the sum of twenty three pounds eleven shillings and six pence for his services in that capacity the past year.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of two hundred pounds in aid towards completing the Steam Boat Landings at Chatham and Newcastle, on the great line of Road from Halifax to Restigouche.

To L. P. W. DesBrisay, of Richibucto, Merchant, the sum of nine pounds two shillings and five pence to reimburse duties on Fire Engine and Hose there imported.

To James Attridge, Master of the Barque "Jeannie Johnson," the sum of seventeen pounds two shillings and six pence to reimburse him Head Money paid on one hundred and thirty seven Passengers from Tralee, Ireland, at the Port of Saint Andrews in November last, for the reasons stated in Number eighteen Report of the Committee.

To Charles Glidden, Mail Carrier between Houlton and Woodstock, the sum of eleven pounds seven shillings and six pence to reimburse him losses sustained in consequence of a seizure of two Horses, Wagon, and Harness, by the Deputy Treasurer at Woodstock, agreeably to the Report of the Committee of Trade.

To James M. Decker, of Engine Company Number three, at Saint John, the sum of five pounds and nine pence to reimburse duties paid on a Hose Carriage imported in November last.

To Dennis Whelan, of the City of Saint John, the sum of five pounds sixteen shillings and three pence to reimburse excess of duty paid on a Carriage imported from Boston, in consequence of its being valued by the Appraisers beyond the amount paid for it by the Importer.

To David Tapley and Hugh Morris, of Saint John, the sum of forty seven pounds seventeen shillings and six pence to reimburse them for Duties paid on a Steam Boiler imported from the United States in one thousand eight hundred and fifty three for a new Steamer called the "Magnet," built in this Province, now running.

To F. W. Hatheway and Otis Small the sum of eighty four pounds seven shillings and four pence for return duties on Tubes, Boiler ends, &c., imported from the United States for the new Steamer "Richmond," which Steamer, Machinery, and Boiler were built in Saint John.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of two hundred and ninety five pounds to be applied in full for completing the Breakwater at Sand Point, in the City of Saint John.

To His Excellency the Lieutenant Governor or Administra-

tor of the Government for the time being, a sum not exceeding five thousand pounds to be applied in deepening, widening, and improving such Harbours in the Province as may require the same : no part of such sum to be expended until a satisfactory certificate be first obtained from a scientific Engineer to be appointed for the purpose, as to the practicability of doing so ; that his first Survey and Report be of the Harbour of Richibucto, for the improvement of which he shall submit a plan to the Government as to the practicability and permanency of such contemplated improvement, and estimates of the cost, to determine the Government as to the commencement of the work ; that other Harbours be also subject to the same survey, examination, and report, which may require deepening and improvement.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of thirty pounds for erecting a Public Wharf or Approach at the Fishery Station at Caraquet, County of Gloucester.

To Shepherd Cary and Company, Merchants, of Houlton, Maine, the sum of fourteen pounds seven shillings and one penny to reimburse them for duties exacted by the Deputy Treasurer at Woodstock, on goods in transitu through this Province destined for the United States.

To William H. Adams, of Saint John, the sum twenty five pounds twelve shillings and eleven pence to refund him duties on Nail Machinery imported from the United States in one thousand eight hundred and fifty two.

To Z. Barnard Brown the sum of nineteen pounds twelve shillings and eight pence to reimburse him for duties paid on goods destined for the United States, in trasitu at the Grand Falls.

To Thomas E. Smith and Son the sum of nine pounds fourteen shillings and nine pence to reimburse them duties paid on a quantity of goods exported in the Steamer "Creole" from Saint John, which goods were lost when the said Steamer was stranded in June last.

To Philps Brothers, of Saint John, the sum of eleven pounds six shillings and three pence to reimburse them for duties paid on new Machinery imported for the use and improvement of their Paper Manufactory.

To Fleming and Humbert, of Saint John, the sum of forty one pounds four shillings and three pence to reimburse them duties paid on improved Machinery imported for the use and improvement of their extensive Foundry, which articles could not be made or obtained in this Province.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred and fifty pounds towards a Public Wharf nearly now erected at Hillsborough, for the accommodation of Steamers and other Vessels.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds, in aid of individual subscription, to extend the Public Wharf at Bellevous Village, Dorchester, Westmorland.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of two hundred and fifty pounds, in aid of individual subscription, towards the erection of a Public Wharf and a Steamboat Landing at Hall's Creek, Bend of Petitcodiac.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of two hundred pounds, in aid of individual subscription, for extending the Public Wharf at Sackville.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of forty five pounds in part payment of a Wharf erected by Daniel Briggs and others in the Parish of Chipman, Queen's County.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of two hundred pounds towards the erection of a Public Wharf at Bathurst, in the County of Gloucester, in aid of individual subscription.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds, in aid of individual subscription, towards the erection of a Wharf at the mouth of the Poquiock, County of York.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of fifty

pounds to enable David Tapley to pay a balance due the Contractor for building a Public Steamboat Wharf at Maugerville, in the County of Sunbury.

To Meracious Atkinson, the sum of seventy seven pounds nineteen shillings and ten pence to reimburse him in expenses incurred in defending a suit brought against him while acting in the discharge of his duty as a Road Commissioner.

To John Sears, of Saint John, the sum of ninety pounds to reimburse him expenses incurred in endeavouring to execute a Contract entered into with the Provincial Government for a supply of Copper Coin for the use of the Province ; the same to be in full.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds, in further aid of individual subscription, towards erecting a Wharf at Woodstock, in the County of Carleton ; the same not to be drawn from the Treasury until it shall have been satisfactorily certified to His Excellency in Council that the amount has been actually laid out and expended.

To Cadwallader E. Sayre, an aged Instructor of Youth, the sum of ten pounds to aid him in his present destitute circumstances.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds to be applied towards building a Wharf at Spragg's Point on the Bellisle Bay, in the Parish of Springfield, in King's County ; the same not to be drawn from the Treasury until a satisfactory certificate is received by the Executive Government from a Commissioner to be appointed for the purpose, that a similar sum has been raised and paid from individual subscription, and has been expended towards such erection.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of forty pounds to complete the Wharf at Robert Golding's landing, Parish of Wickham, Queen's County ; the same not to be drawn from the Treasury until a satisfactory certificate is received by the Executive Government from a Commissioner to be appointed for the purpose, that a similar sum has been raised and paid from individual subscription, and has been expended towards such erection.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of fifty pounds to aid in the erection of a Public Wharf on the eastern side of the Jemseg Creek, at the old Ferry ; the same not to be drawn from the Treasury until a satisfactory certificate is received by the Executive Government from a Commissioner to be appointed for the purpose, that a similar sum has been raised and paid from individual subscription, and has been expended towards such erection.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of fifty pounds to aid in the erection of a Public Wharf at the mouth of the Victoria Road on the River Saint John, Parish of Gagetown, Queen's County ; the same not to be drawn from the Treasury until a satisfactory certificate is received by the Executive Government from a Commissioner to be appointed for the purpose, that a similar sum has been raised and paid from individual subscription, and has been expended towards such erection.

To Thomas Baker, the sum of thirty five pounds for teaching a superior School in the Parish of Coverdale, County of Albert.

To Joseph Terrio, the sum of five pounds for ferrying Her Majesty's Mails across Caraqueet River for the past year.

To the Justices of the Peace for the County of Restigouche the sum of one hundred pounds, to be applied by them in aid of individual subscription towards the erection and completion of a Town Hall and Mechanics' Institute at Dalhousie.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of three hundred pounds for the purpose of establishing a communication by Steam during the continuance of open water, between Shediac and Prince Edward Island, once a week each way ; no Warrant to issue until a certificate be received from a competent Commissioner or Commissioners to be appointed for the purpose by the Government, stating that a good and sufficient Steamer of at least seventy five horse power, properly built and equipped, has been constantly running on the line for the whole of the year, during open water, capable of carrying with safety passengers and freight, such certificate in every respect to be satisfactory to the Government.

To the Corporation of the City of Fredericton the sum of two hundred and twenty five pounds, to be applied in improving the Public Wharfs at Regent Street, and at Phoenix Square ; the same not to be drawn from the Treasury until a satisfactory certificate be furnished the Executive Government, that a like sum has been raised and expended upon the same object.

To Duncan Stuart, Gauger at the Port of Saint Stephen, the sum of ten pounds one shilling and six pence, being the amount of his Account for gauging for the year one thousand eight hundred and fifty three.

To the Governor and Trustees of the Madras School the sum of four hundred pounds towards the support of that Institution.

To His Excellency the Lieutenant Governor the sum of one hundred and fifty pounds towards the support of the Roman Catholic School established in the City of Saint John.

To His Excellency the Lieutenant Governor the sum of thirty pounds, in aid of individual subscription, towards the Free School in the Parish of Portland ; the same to be expended by the Board of Commissioners of the Roman Catholic School in Saint John.

To His Excellency the Lieutenant Governor a sum not exceeding two hundred and fifty pounds to be applied in relieving sick and distressed Indians in this Province, and for procuring Seed Grain and Potatoes.

To the Joint Committee of the Legislative Library the sum of three hundred pounds sterling, to pay for the last importation of Books, and to procure an additional supply the present year.

To His Excellency the Lieutenant Governor a sum not exceeding three hundred pounds to enable the Commissioners at Saint John to replace the Emigrant Buildings destroyed by Fire there during the past year, from the Emigrant Fund.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred and fifty pounds towards erecting a Wharf on the north side of Tabusintac River, on the Great Road from Newcastle to Shippagan.

To Letty Bell, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Mary Pratt, of Saint George, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Jane Hawkins, of the Parish of Pennfield, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Margaret Grierson, of the Parish of Saint George, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Mercy M'Nichol, of the Parish of Saint George, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Esther Bryant, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Magdalen Schurman, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Nancy M'Bean, of Saint Stephen, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Jane Hamilton, of Saint George, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Jane M'Rae, of Chatham, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To Sarah Greenlaw, of West Isles, Widow of an old Soldier of the Revolutionary War, the sum of ten pounds to aid her in her present destitute circumstances.

To His Excellency the Lieutenant Governor or Administrator of the Government for the time being, the sum of one hundred pounds towards erecting a Public Wharf in the Parish of Saint Mary's, at Hooper's Landing, in aid of individual subscription.

To Redmond Maguire the sum of twenty five pounds for damages sustained by a Contract taken under A. Goodfellow, Esquire, in consequence of the great Freshet in November last; the same to be taken from the Great Road Grant from Fredericton to Miramichi, if approved of by the Supervisor.

To Samuel D. Miller, Teacher of the Commercial School in the City of Saint John, the sum of fifty pounds in aid of the said establishment, and to defray the increased expenses thereof,

To Silvain Babino the sum of nineteen pounds seventeen shillings and six pence to reimburse him for extra work performed under a Contract with the Commissioners for extending the Wharf at Shediac.

To William P. Sayre, of Dorchester, Westmorland, the sum of nine pounds thirteen shillings and four pence to remunerate him for services performed as Sheriff of said County for the late Attorney General Peters.

To William Segee, of Fredericton, the sum of fifty pounds to remunerate him for his services as Stageman during the last Session of the Legislature.

To His Excellency the Lieutenant Governor the sum of seventy five pounds for the purpose of extending the Public Wharf at Ferry Point, in the County of Albert, agreeably to the Report of the Committee of Trade.

To Anne Ellis, a licenced Teacher, the sum of nine pounds for having taught School in the Parish of Bathurst for a period of six months ended January the first, one thousand eight hundred and fifty two.

To His Excellency the Lieutenant Governor the sum of one hundred pounds, in aid of individual subscription, to extend the Wharf at the Public Landing in the Town of Magaguadavic to low water ; the Warrant not to issue until satisfactory proof has been furnished to the Government that the work has been fully completed and done in a sufficient manner.

To His Excellency the Lieutenant Governor the sum of one hundred pounds, in aid of individual subscription, towards the support of a Free School in Fredericton for the benefit of the Roman Catholic Children ; the said amount not to be drawn until it be satisfactorily certified to the Government that the School has been in operation for at least six months, and that the number of children attending thereat is sufficient to warrant an appropriation of the amount.

To His Excellency the Lieutenant Governor the sum of one hundred pounds for the purpose of building a Breakwater at Grand Aunsee, in the County of Gloucester, to shelter Vessels

loading Grindstones and Fish at said place ; the same not to be drawn from the Treasury until it shall be satisfactorily certified to His Excellency the Lieutenant Governor in Council, that a like sum has been subscribed and paid and expended by a Commissioner or Commissioners to be appointed for that purpose.

To James F. Gooldrup, of the County of Saint John, the sum of fifty pounds to remunerate him for his services as Teacher of the African School at Loch Lomond in Saint John.

To Penelope Herring, of the City of Saint John, the sum of twenty pounds for teaching a School for twelve months ending thirty first December one thousand eight hundred and fifty three.

To Rachel Martin, of the City of Fredericton, the sum of twenty pounds for teaching a School for twelve months ending thirty first December one thousand eight hundred and fifty three.

To Elizabeth Phillips, of the City of Saint John, the sum of twenty pounds for teaching a School for twelve months ending thirty first December one thousand eight hundred and fifty three.

To Mary M. Leggett, of Studholm, in King's County, the sum of twenty pounds for teaching a School for twelve months ending thirty first December one thousand eight hundred and fifty three.

To John Lynch, of Douglas, in the County of York, a second class licenced Teacher, the sum of five pounds eleven shillings and three pence, being the difference between the amount to which he was entitled and the amount received for teaching a School for eighteen months.

To James King and Thomas King the sum of one hundred and ninety nine pounds two shillings and six pence, for loss sustained in carrying Express English Mails from Halifax to Saint John, and from Saint John to Halifax, in one thousand eight hundred and fifty, agreeably to the Report of a Select Committee in one thousand eight hundred and fifty three and one thousand eight hundred and fifty four, respectively.

To Thomas M'Avity the sum of fifty pounds to remunerate him for superintending the Emigrant Buildings and the landing and supervision of Emigrants at Saint John for the year one thousand eight hundred and fifty three.

To the Overseers of the Poor of the Parish of Hopewell, County of Albert, the sum of sixty one pounds sixteen shillings to reimburse them expenses incurred in the support of a transient Lunatic in one thousand eight hundred and fifty two.

To James Taylor, Emigrant Agent for the County of York, the sum of four pounds ten shillings and nine pence to reimburse him expenses incurred in the support of sick and distressed Emigrants the past Summer.

To Catherine W. Chamberlain, of the City of Saint John, the sum of twenty pounds for teaching a School for twelve months ending thirty first December one thousand eight hundred and fifty three.

To Messieurs Fleming and Humbert, of the City of Saint John, Iron Founders, the sum of thirteen pounds five shillings and nine pence, being amount of duties paid on Machinery imported for manufacturing purposes.

To the Justices of the Peace of the County of Gloucester, a sum not exceeding one hundred pounds towards the erection of a Public Hall and Mechanics' Institute at Bathurst, in said County.

To Eliphaz Coddington, of Grand Manan, the sum of ten pounds to remunerate him in part for services during the late War, and to relieve him in his present indigent circumstances.

To Philip White, of Queen's County, the sum of seven pounds ten shillings to remunerate him for ferrying Her Majesty's Mails over the Washademoak Lake for the last two years.

To John Robicheau, of Tracadie, County of Gloucester, the sum of five pounds to compensate him for ferrying Her Majesty's Mails across the Big Tracadie River for the past year.

To Francis Petite, of Victoria, the sum of twenty pounds to remunerate him for ferrying Her Majesty's Mails across the River Saint John, at the Grand Falls, during the past year.

To Daniel Carney and Thomas Gosnell, of the County of Gloucester, the sum of ten pounds to remunerate them for ferrying Her Majesty's Mails across the River Nepisiguit the past year.

To James Tarrío, of Albert, the sum of five pounds to remunerate him for carrying Her Majesty's Mails from the Post

Office in Hillsborough to Walter Hume's, in the Parish of Hopewell, in said County, a distance of ten miles.

To Charles Taylor, of Campbellton, in the County of Restigouche, the sum of twenty pounds to remunerate him for ferrying Her Majesty's Mails across the Restigouche River, to Cross Point on the Canadian side, during the past season.

To James M'Master, of the County of Charlotte, the sum of twenty five pounds to remunerate him for carrying Her Majesty's Mails between Saint Andrews and Campo Bello, in said County, during the Winters of 1850 and 1851.

To Benjamin Yerxa, Junior, of Saint Mary's, in the County of York, the sum of fifteen pounds to remunerate him for ferrying Her Majesty's Mails across the River Saint John for the last two years.

To Laurent Brideau, the sum of five pounds to remunerate him for ferrying Her Majesty's Mails across the Pokemouche River during the past year.

To His Excellency the Lieutenant Governor the sum of fifty pounds, in aid of individual subscription, towards the support of the African School in the City of Saint John.

To Charles H. Thompson, of Saint Andrews, in the County of Charlotte, the sum of fifty eight pounds eight shillings to reimburse him duties paid on Patent Machinery from England, which could not be procured from any other place.

To James Morse, one of the Fishery Wardens of the County of Restigouche, forty pounds for his services in that capacity for the year one thousand eight hundred and fifty one, there being no Act in force at that time to enforce assessments for that purpose.

To Daniel M'Laughlan, of the Island of Grand Manan, the sum of forty pounds to compensate him for services rendered Her Majesty's Cruisers in the protection of the Fisheries, and for services rendered to several Vessels when in imminent danger, thereby saving many valuable lives and a large amount of property.

To Alexander Cook, one of the Fishery Wardens of the County of Restigouche, the sum of fifteen pounds to compensate him for services rendered and expenses incurred in that capacity in the year ending May one thousand eight hundred and fifty three.

To James Brown, one of the Fishery Wardens for the County of Charlotte, the sum of twenty five pounds to reimburse him expenses incurred in discharge of his duty for the year one thousand eight hundred and fifty three.

To John Alexander, one of the Fishery Wardens for the County of Charlotte, the sum of fifteen pounds to reimburse him expenses incurred in discharge of his duty for the year one thousand eight hundred and fifty three.

To His Excellency the Lieutenant Governor the sum of five hundred pounds for the purpose of encouraging Fishery Societies in the same manner as the Agricultural Societies are by Law.

To John Bishop the sum of eleven pounds for six months services as a second class Teacher ending thirteenth June one thousand eight hundred and fifty two.

To Elizabeth M'Cann the sum of twenty one pounds for fourteen months services as a third class Teacher ending first March one thousand eight hundred and fifty three.

To Rufus Pipes the sum of twelve pounds ten shillings for five months services as a first class Teacher ending in May one thousand eight hundred and fifty two.

To Lawrence L. O'Regan the sum of eighteen pounds for twelve months services as a third class Teacher ending the first of May one thousand eight hundred and fifty two.

To George Jones the sum of eight pounds five shillings for five and one half months services as a third class Teacher ending first of April one thousand eight hundred and fifty two.

To John M'Court the sum of ten pounds ten shillings for seven months services as a third class Teacher ending first December one thousand eight hundred and forty six.

To George Cummings the sum of eighteen pounds for twelve months services as a third class Teacher ending thirty first December one thousand eight hundred and fifty three.

To Elizabeth Doiron the sum of seven pounds for six months services as a third class Teacher ending fifteenth day of September one thousand eight hundred and fifty two.

To Henrietta Doiron the sum of fourteen pounds for twelve months services as a third class Teacher ending seventh June one thousand eight hundred and fifty three.

To Delancy M. Trites the sum of nine pounds for four and a

half months services as a second class Teacher ending twenty ninth March one thousand eight hundred and fifty two.

To Thomas A. White the sum of twenty two pounds ten shillings for fifteen months services as a third class Teacher ending seventh May one thousand eight hundred and fifty one.

To Joseph Dixon the sum of three pounds six shillings and eight pence for two months services as a third class Teacher in the Parish of Lancaster, in the County of Saint John, ending thirtieth November one thousand eight hundred and thirty nine.

To Mary Duff the sum of nine pounds for six months services as a third class Teacher ending first December one thousand eight hundred and fifty one.

To John Stillman the sum of six pounds, being difference between amount received and to which he was entitled as a second class Teacher.

To John M. O'Donaghue the sum of eighteen pounds for twelve months services as a third class Teacher ending thirteenth September one thousand eight hundred and fifty two.

To the Trustees of the Milltown Academy at Saint Stephen the sum of one hundred pounds towards the support of that Institution.

To the Trustees of Schools for the Parish of Hampstead, in Queen's County, the sum of eighteen pounds to remunerate William Downey for twelve months services as a third class Teacher ending twenty fifth May one thousand eight hundred and fifty two.

To Rowland Crocker the sum of nine pounds for his services as a third class Teacher for six months ending seventh June one thousand eight hundred and fifty three.

To David Lynch the sum of nine pounds for his services as a third class Teacher for six months ending twelfth January one thousand eight hundred and fifty two.

To Jane Stevenson the sum of ten pounds for six months services as a third class Teacher ending fifth July one thousand eight hundred and fifty two.

To Elizabeth O'Connor the sum of two pounds six shillings and eight pence for two months services as a third class Teacher ending first August one thousand eight hundred and fifty two.

To Ellen Howlett the sum of four pounds ten shillings for

her services as a third class Teacher for three months ending first October one thousand eight hundred and fifty one.

To Silvain Cormea the sum of six pounds for four months services as a third class Teacher ending ninth June one thousand eight hundred and fifty three.

To Jeremiah Meagher the sum of nine pounds for his services as a third class Teacher for six months ending the eleventh November one thousand eight hundred and fifty.

To William Quinn the sum of thirteen pounds ten shillings for his services as a third class Teacher ending first August one thousand eight hundred and fifty two.

To Mary Morrison the sum of fourteen pounds for twelve months services as a third class Teacher ending first April one thousand eight hundred and fifty three.

To Thomas Smith the sum of eleven pounds five shillings for seven and a half months services as a third class Teacher ending first October one thousand eight hundred and fifty two.

To John Hornibrook the sum of four pounds ten shillings for three months services as a third class Teacher ending twenty eighth February one thousand eight hundred and fifty three.

To John J. P. Gibb the sum of eighteen pounds for twelve months services as a third class Teacher ending thirtieth September one thousand eight hundred and fifty three.

To Samuel H. Shaw, of the Parish of Simonds, in the County of Carleton, the sum of eighteen pounds for twelve months services as a third class Teacher ending twentieth February one thousand eight hundred and fifty two.

To Mary Ann M'Neal, of Woodstock, in the County of Carleton, the sum of seven pounds for six months services as a third class Teacher ending first February one thousand eight hundred and fifty two.

To the Provincial Board of Education a sum not exceeding forty pounds to enable them to pay Edward L. Outhouse, Assistant to the Provincial Training School, such a sum in addition to his present salary as will secure his services in that Institution and fairly compensate him therefor.

To George B. Bell the sum of forty pounds for ferrying Her Majesty's Mails across the River Miramichi, on the line from Halifax to Restigouche, for the years one thousand eight

hundred and fifty two and one thousand eight hundred and fifty three.

To Jane Gallagher, Widow of the late John Gallagher, Esquire, Town Major of the City of Saint John, the sum of thirty pounds in full for extra services performed and advances made by her late Husband, while Quarter Master General of the Militia during the Canadian troubles.

To Margaret Phillips, Widow of the late James A. Phillips, the sum of twenty five pounds, balance due her late Husband for Papers furnished this House for past years, in full of all claims.

To Thomas Black, of Saint Martins, County of Saint John, the sum of twenty pounds for teaching a School for a period of twelve months.

To the Justices of the Peace for the County of Charlotte the sum of two hundred pounds, in aid of individual subscription, for the purpose of extending the Steamboat Landing to low water mark; one hundred and fifty pounds of which to be a re-appropriation of that sum granted last Session to His Excellency the Lieutenant Governor, as follows :—" Towards erecting a Public Wharf and Steamboat Landing at Saint Andrews, the same to be in aid of individual subscription, and not to be drawn from the Treasury until it shall be satisfactorily certified to His Excellency that a like sum has been subscribed and paid and expended upon the above work, and the Wharf completed to the satisfaction of the Government."

To His Excellency the Lieutenant Governor a sum not exceeding fifty pounds, in aid of individual subscription, towards erecting a Public Seminary at Memramcook, County of Westmorland; the same not to be drawn from the Treasury until it be satisfactorily certified to His Excellency that a good and efficient School has been established and in successful operation, and that at least double that sum has been subscribed, paid, and expended towards that object.

To William Sheals, of Saint Mary's, in the County of York, the sum of ten pounds towards remunerating him for removing obstructions and repairing the embankments on a part of the Great Road leading from Fredericton to Newcastle.

To Francis X. Buteau, the sum of thirteen pounds for having taught School in the Parish of Beresford, in the County

of Gloucester, for a period of nine months ending the first day of July one thousand eight hundred and fifty three.

To Jacob Dewitt, of Blissville, in the County of Sunbury, the sum of ten pounds, being amount due his late Mother-in-law, Sarah Creekmore, the Widow of an old Soldier of the Revolutionary War, at the time of her death.

To Lambert Pond, of Saint Mary's, in the County of York, the sum of nine pounds three shillings and four pence, being amount due his late Father, John Pond, an old Soldier of the Revolutionary War, at the time of his death.

To Henry Wannamaker, of Studholm, in King's County, the sum of fourteen pounds sixteen shillings and eight pence, being for one year's pension due his late Mother, Leah Wannamaker, and for seven months due his late Mother-in-law, Dorothy Groom, Widows of old Soldiers of the Revolutionary War, at the time of their deaths.

To John Rigar, of Prince William, in the County of York, an old Soldier of the Revolutionary War, the sum of ten pounds to aid him in his present destitute circumstances; the same not to be drawn until it be satisfactorily certified to His Excellency the Lieutenant Governor by the Clerk of the Peace in Sessions, that the applicant has not been certified for the term now granted for, and that the next certificate (if the applicant be alive) shall have date from the time he is by this Resolution paid for, and to expire January Sessions one thousand eight hundred and fifty five, for twelve months.

To Elizabeth Bayley, of Douglas, in the County of York, Widow of a disbanded Soldier of Her Majesty's ninety eighth Regiment, the sum of twelve pounds, to be applied in payment of a lot of Land on which her late Husband was located; the said lot of Land to be granted to the Widow and Children of the deceased.

To James Hogg the sum of fifty pounds for reporting and publishing the Debates of the Legislature for the present Session.

To the Overseers of the Poor for the Parish of Saint Stephen, the sum of six pounds seventeen shillings and five pence to remunerate them for support afforded to Emigrant Poor for the year one thousand eight hundred and fifty three.

To the Justices of the Peace for the County of Victoria the

sum of fifty pounds, to be applied by them, in aid of individual subscription, towards the erection and completion of a Town Hall and Mechanics' Institute at Edmundston in said County.

To the Trustees of the Institute and Hall in the Parish of Burton, County of Sunbury, the sum of fifty pounds to enable them to pay off the debt due on said building.

To His Excellency the Lieutenant Governor a sum not exceeding seven hundred and fifty pounds for the purpose of procuring a Map of this Province, and for furnishing a sufficient number of copies for the use of the Parish Schools and for general circulation.

To the Restigouche Branch of the Miramichi Electric Telegraph Company the sum of two hundred pounds to assist in building a line of Telegraph from Bathurst through the County of Restigouche, to meet and connect with the Canadian line *via* Metis; the same not to be drawn from the Treasury until it be satisfactorily certified to the Governor in Council that double that sum has been subscribed and paid by the stockholders.

To the Reverend Charles Churchill the sum of seven pounds fifteen shillings to reimburse him for duty paid on a Carriage owned by him in Canada and imported into this Province through the United States.

To Ann Cowdel the sum of eighteen pounds for keeping a School in the Parish of Sackville, in the County of Westmorland, for a period of twelve months ending November one thousand eight hundred and fifty three.

To Mary Roach, the Widow of an old and meritorious Soldier, the sum of ten pounds to assist her in her present destitute circumstances.

To William Morrison and Henry Eagles, Overseers of the Poor for the Parish of Alnwick, in the County of Northumberland, the sum of thirty nine pounds eight shillings to reimburse expenses incurred by them in supporting Richard Donovan, a Lunatic Pauper Emigrant, in the year one thousand eight hundred and forty seven.

To Mark Neville, the sum of twenty five pounds for having taught a School at the Indian Village, York County, for the instruction of young Indian Children, for six months ending thirtieth day of March one thousand eight hundred and fifty four.

To His Excellency the Lieutenant Governor the sum of fifty pounds for the Missionary to the Milicete Tribe of Indians stationed at Fredericton for the year one thousand eight hundred and fifty four.

To Mary Collins, Widow of the late Doctor Collins, who fell a victim to the pestilential disease raging on Partridge Island at the Quarantine Establishment in one thousand eight hundred and forty seven, while in professional attendance upon the numerous Emigrants there landed, to aid her in her present distressed condition, the sum of twenty five pounds.

To the Clerk of the Crown in the Supreme Court the sum of one hundred pounds for his services for the year one thousand eight hundred and fifty three.

To Charles Whittekir the sum of eighteen pounds three shillings, excess duty paid on granulated Sugar imported into this Province in the year one thousand eight hundred and fifty three.

To the Commissioners of Sick and Disabled Seamen at the Port of Richibucto the sum of one hundred and eighteen pounds, being balance of debt contracted in the erection of a Marine Hospital at that Port.

To His Excellency the Lieutenant Governor a sum not exceeding three thousand pounds, to be appropriated to facilitate the construction of a Railway across the Isthmus at the Grand Falls, by the Grand Falls Railway Company; no part of which sum to be drawn from the Treasury until it is certified to His Excellency by a competent Engineer to be appointed by the Government for that purpose, that the road is in efficient operation for traffic, when one thousand pounds shall be drawn and paid to the said Company; one thousand pounds in twelve months; and the remaining sum of one thousand pounds within two years after the said certificate shall have been furnished.

To His Excellency the Lieutenant Governor the sum of two hundred pounds to be applied towards removing obstructions and in improving the navigation of the South West Branch of the River Miramichi.

To His Excellency the Lieutenant Governor the sum of fifty pounds to aid in the completion of the Temperance Hall and Institute in the Village of Gagetown.

To William Dempsey, a licenced Teacher, the sum of nine pounds for having taught a School in the Parish of Bathurst for a period of six months ending the first July one thousand eight hundred and fifty two.

To Anne Hadley, a licenced Teacher, the sum of fourteen pounds for having taught School in the Parish of Beresford for a period of twelve months ending the thirty first December one thousand eight hundred and fifty three.

To Francis Watson, of Woodstock, in the County of Carleton, the sum of twenty seven pounds to compensate him in full for expenses incurred in defending the title to his Land under the Treaty of Washington, agreeably to the Report of the Select Committee.

To His Excellency the Lieutenant Governor the sum of two hundred pounds to enable Alexander Munro to complete and publish a Work on the Statistics of New Brunswick, and to furnish copies of the same for the use of Parish Schools, agreeably to the recommendation of the Select Committee.

To His Excellency the Lieutenant Governor the sum of twenty pounds to remunerate Belong Legere and Frederick Burke for work performed under a Contract to build an Aboi-deau in Belleveau Village, in the County of Westmorland, in one thousand eight hundred and fifty one; the work having been carried away when half completed by the high tides and heavy rains.

To His Excellency the Lieutenant Governor the sum of fifteen pounds to be applied towards assisting John M'Manus, of King's County, in settling on a lot of Land on the Albert Road, between M'Manus' and Doran's, the said sum being a re-appropriation of a Grant made to Patrick White, of New Ireland, in the County of Albert, in accordance with the Report of the Agricultural Committee in the year one thousand eight hundred and forty nine; the same to be paid so soon as it shall be made to appear to His Excellency that he has located himself upon the tract of Land, built a house, and resided therein six months.

To L. P. W. DesBrisay the sum of nine pounds ten shillings, being amount of export duty paid on the cargo of the Brig "Adelaide," which Vessel was wrecked and the cargo re-landed in September last.

To His Excellency the Lieutenant Governor the sum of one hundred pounds, together with two hundred pounds granted in one thousand eight hundred and fifty three, and now re-appropriated, for the purpose of constructing a Draw in the Bridge over the Richibucto River ; this Grant, together with the Grant of last Session, not to be expended unless it shall be satisfactorily certified by a Commissioner to be appointed for the purpose, that such Draw can be placed in the said Bridge without materially reducing its strength, and that after the same is so placed in the Bridge, the Bridge shall be as perfectly safe as it is at present.

To His Excellency the Lieutenant Governor a sum not exceeding six thousand pounds for the protection of the Revenue the present year.

To His Excellency the Lieutenant Governor the sum of one thousand two hundred and fifty pounds towards the support of the Provincial Penitentiary for the current year.

To His Excellency the Lieutenant Governor the sum of two thousand seven hundred and fifty pounds towards the maintenance of the Provincial Lunatic Asylum for the year one thousand eight hundred and fifty four.

To His Excellency the Lieutenant Governor a sum not exceeding three thousand two hundred and fifty pounds for enlarging, finishing, and completing the Provincial Lunatic Asylum as near as possible agreeably to the original design.

To the Quarter Master General of the Militia Forces the sum of one hundred and fifty pounds for his services in that capacity the past year.

To the Adjutant General of the Militia Forces the sum of eighty five pounds for his services in that capacity the past year.

To the Commissioner of Government House the sum of sixty pounds for Coals for the Public Rooms and Offices in Government House.

To A. H. Weeks the sum of fifty pounds for teaching a superior School in Buctouche, in the County of Kent, for one year ending first April one thousand eight hundred and fifty three.

To His Excellency the Lieutenant Governor the sum of two hundred pounds to be applied in erecting a Public Wharf at Campbellton, in the County of Restigouche.

To His Excellency the Lieutenant Governor a sum not exceeding seven hundred and fifty pounds to be applied in erecting an Hospital for the Sick and Keeper's House, at the Provincial Penitentiary.

To David W. Jack, Deputy Treasurer at Saint Andrews, the sum of fifty pounds for his services in that capacity the past year, in addition to the amount allowed by law.

To His Excellency the Lieutenant Governor a sum not exceeding five thousand pounds to be appropriated in procuring a good and efficient Dredging Machine or other Machinery, to be employed in removing obstructions in the Harbours and Rivers on and emptying into the Bay of Fundy.

To the Commissioners of Light Houses for the Bay of Fundy the sum of one thousand seven hundred and fifty pounds to meet the contingencies for the present year, and a further sum of two hundred and fifty pounds towards the support of the Lights at Brier Island and Cape Sable Seal Island, in the Province of Nova Scotia ; to be taken from the Light House Fund.

To the three Appraisers at Saint John the sum of twenty five pounds each for their services the past year.

To His Excellency the Lieutenant Governor a sum not exceeding one thousand pounds for the support and maintenance of the Tracadie Lazaretto the current year, and for discharging any balances that may be found due.

To William Kinread the sum of one pound eleven shillings and ten pence, being duties paid by him on a Machine for making Bricks, imported from Prince Edward Island.

To S. E. Higgins the sum of one pound fourteen shillings and four pence, to reimburse duties on Chairs imported from Prince Edward Island in August last.

To James Malone the sum of twenty pounds for losses sustained in carrying Her Majesty's Mails from Fredericton to Woodstock, on account of the great Freshet in November last.

To His Excellency the Lieutenant Governor the sum of one hundred pounds towards building a Breakwater and Boat Harbour at Irish Town in the Parish of Lancaster, County of Saint John ; the same to be in aid of individual subscription, and as a re-appropriation of that amount granted in one thousand eight hundred and fifty two for a similar purpose.

To James Robertson the sum of ten pounds for ferrying Her Majesty's Mails across the River Tabusintac, in the County of Northumberland, during the years one thousand eight hundred and fifty two and one thousand eight hundred and fifty three.

To George Christie the sum of twenty five pounds for increased expenses incurred in carrying her Majesty's Mails between Saint John and Saint Andrews, caused by the Bridges on the Road being carried away last Autumn.

To Robert Kelly, Mail Carrier between Fredericton and Saint Stephen, the sum of twenty five pounds in consideration of losses sustained by the destruction of Bridges and the depth of the snow.

To His Excellency the Lieutenant Governor the sum of two hundred pounds for promoting the publishing and gratuitous distribution to Emigrants arriving in this country of a Hand Book, descriptive of the Province, its geographical position, Crown Lands—mode of sale, Crops, Fisheries, Minerals, form of Government, demand for labour, and other information necessary to settlers in this country; no Warrant to issue for this service until it is certified to the satisfaction of His Excellency in Council that the work contemplated fully justifies an appropriation of this amount, and that it has been printed and published for use and circulation.

To the Bathurst Branch of the Miramichi Electric Telegraph Company a sum not exceeding one hundred and ten pounds to assist in building a line of Telegraph from Miramichi to Bathurst, to meet and connect with the Restigouche line to Canada *via* Metis; the money not to be drawn from the Treasury until it is satisfactorily certified to the Governor in Council that double that sum has been subscribed and paid towards the same object.

To His Excellency the Lieutenant Governor the sum of one thousand pounds for the purpose of exploring and opening out a great line of Road from or near the mouth of the River Tobique to the Settlements on that River, and across the country towards the Settlements on the River Restigouche, on such route as the Commissioner or Commissioners to be appointed for that purpose shall deem most advisable for opening up and settling the extensive tract of valuable and fertile land

lying between the River Saint John and the northern section of the Province.

To Joseph Kingston, of Burton, in the County of Sunbury, the sum of two hundred pounds towards the support of his Power Loom Manufactory Establishment.

To R. and H. Davis, of Woodstock, in the County of Carleton, the sum of one hundred and twenty five pounds in aid of their establishment for the manufacture of Woollen Cloths; the same not to be drawn from the Treasury until it be satisfactorily certified that the same is in full and efficient operation, agreeably to the Report of Select Committee.

To George Kerr, of Charlotte County, the sum of twenty four pounds to enable him to pay for a grant of Lots number seventeen and eighteen, in Tryon Settlement.

To Beverly R. Jouett, Esquire, the sum of forty five pounds being the balance due him as recommended by a Committee of the Session of one thousand eight hundred and fifty three.

To Thomas Williams the sum of sixty three pounds for his services for nine months ending the ninth of February last, in taking care of the Province Building and the property therein, and for keeping in order and taking care of the grounds around the same.

To the Commissioners of Light Houses in the Bay of Fundy the sum of thirty pounds for the purpose of laying down Buoys at or near the entrance of Musquash Harbour; the same to be taken from the Light House Fund.

To His Excellency the Lieutenant Governor a sum not exceeding five thousand pounds to be expended in procuring suitable secure Provincial Buildings at different Ports of Entry in this Province, agreeably to the Report of the Finance Committee submitted to this House on the fourth day of March last.

To John Main, of Richibucto, County of Kent, the sum of nine pounds three shillings and four pence, being amount of duty paid on a Steam Engine and Machinery for a Chair Manufactory established by him in that place.

To James Peters, of King's County, the sum of six pounds to reimburse him duties on a valuable Breed of Animals imported for the improvement of the Stock of the Province.

To L. D. Wigan, Esquire, the sum of thirty pounds for

extra work done on a Bridge on the great line of Road leading from Fredericton to Miramichi.

To His Excellency the Lieutenant Governor the sum of one thousand pounds towards improving the navigation of the River Saint John, between Fredericton and the Grand Falls, agreeably to the Report of the Committee.

To His Excellency the Lieutenant Governor a sum not exceeding one thousand four hundred pounds towards the introduction of improved Breeds of Mares, Horned Cattle, Sheep, and Swine, into this Province, provided that no greater sum than one hundred pounds be allowed to each County, on condition that an equal sum be raised and paid by the Agricultural Societies in each County; the Grant not to be paid until the Stock shall be actually imported into the Province, and security be given by the respective Societies, or the purchaser of the Stock, that the same will be kept in the County for at least three years.

To His Excellency the Lieutenant Governor the sum of five hundred and forty two pounds four shillings and eight pence, to reimburse the Commissioners of Light Houses for expenses incurred by them in the erection of the Gas Works and apparatus at Partridge Island; the same to be taken from the Light House Fund.

To His Excellency the Lieutenant Governor the sum of twenty pounds, in aid of individual subscription, towards the making of a Towing Path on Salmon River in Queen's County; such amount not to be drawn from the Treasury until it shall be certified satisfactorily to the Government that a similar sum has been raised and satisfactorily expended by the inhabitants for the same purpose.

To His Excellency the Lieutenant Governor the sum of one hundred and twenty pounds to be expended in the purchase of a Machine of the most improved description for driving Piles for the protection and improvement of the River Saint John.

To His Excellency the Lieutenant Governor the sum of one thousand and sixty seven pounds further towards paying the expenses of the Law Commission, which sum shall be in full, including all the contingent expenses of the Commission.

To the Honorable Attorney General the sum of nine pounds six shillings and three pence, balance of his Business Account

with the Province during the year one thousand eight hundred and fifty three.

To James Dunlop, of Southampton, in the County of York, the sum of seven pounds ten shillings, being amount due his late Mother, Martha Dunlop, the Widow of an Old Soldier of the Revolutionary War, at the time of her death.

To James Starkey, of Queen's County, the sum of four pounds to remunerate him for ferrying the Mails over the Washademoak River at Long Creek the last year, on the route from Sussex, in King's, to Cambridge, Queen's County.

To the Saint Croix Agricultural Society the sum of thirty six pounds thirteen shillings and six pence to enable them to pay in part for a Stud Horse by them imported last year.

To John Simpson, Queen's Printer, the sum of six hundred and fifty pounds in full for printing the Daily and Revised Journals of the Legislative Council and House of Assembly the present Session, the said Grant to include payment of the Revised Journals of both Houses, to be furnished during the recess in the usual manner.

To Dugald Stewart, Deputy Treasurer at Dalhousie, the sum of one hundred pounds for his services in that capacity the past year, in addition to the amount allowed by law.

To Messieurs Graham and Hill the sum of two hundred and twenty pounds for reporting and publishing Debates of the present Session, to be paid when the Contract is performed.

To His Excellency the Lieutenant Governor the sum of twelve hundred and fifty pounds to reimburse advances made for the repairing of Roads, rebuilding and repairing Bridges damaged or carried away by the Freshet in November last.

To His Excellency the Lieutenant Governor the sum of one hundred and fifty pounds towards completing the new Road laid out to the Suspension Bridge in Saint John.

To His Excellency the Lieutenant Governor a sum not exceeding five hundred pounds to provide for the more efficient discharge of the duties appertaining to the Post Office Establishment in this Province.

To His Excellency the Lieutenant Governor a sum not exceeding one hundred pounds, being in full for Jacob Allan's Salary, and that of his Clerk, R. Dalton, on the breaking up of the Office so long held by him as Seizing Officer, in the

County of Saint John, of Timber and Lumber cut on what was called the Disputed Territory. *

To Ann M^cWilliams the sum of twenty five pounds in part compensation for the loss of a Barn and contents set on fire and destroyed by a wandering Lunatic in the Parish of Simonds, County of Saint John, in one thousand eight hundred and fifty two.

To His Excellency the Lieutenant Governor a sum not exceeding four hundred and seventy five pounds to reimburse the Commissioner of Public Buildings, and for advances made for expenditure on the Province Hall and other Public Buildings; and the further sum not exceeding three hundred and twenty five pounds for repairs of Government House, fences, and out-buildings, the past year; the same not to be paid until His Excellency in Council shall be satisfied that the several matters and things contained in the Accounts are correct.

To the Commissioner of Public Buildings the sum of one hundred pounds for his services the past year.

To John Taylor, a native of the Province, the sum of twenty pounds in consideration of the talent and ingenuity exhibited by him in the construction of a Fire Engine, and to assist him in procuring materials.

To His Excellency the Lieutenant Governor a sum not exceeding three hundred pounds for the Road through the Lands of the New Brunswick and Nova Scotia Land Company, one third of which to be expended in connecting the Settlement of said Company with the Newburgh Settlement.

To the Postmaster at Fredericton, the sum of three hundred and seventy pounds fourteen shillings and six pence, being Postages of the Legislature the present Session.

To the Clerk of the House of Assembly the sum of two thousand five hundred and fifty seven pounds eleven shillings and two pence, being the Contingencies of the Legislature the present Session.

2. That all the before-mentioned sums of money shall be paid by the Treasurer of the Province by Warrant of His Excellency the Lieutenant Governor, by and with the advice of Her Majesty's Executive Council, out of the moneys now in the Treasury, or as payment may be made at the same.

CAP. V.

An Act to provide for opening and repairing Roads and erecting Bridges throughout the Province.

Section.

1. Grants for Roads and Bridges.
2. Money, by whom and how expended,—
and accounts rendered.
3. Money, how drawn.

Section.

4. Compensation to Commissioners.
5. Money, when to be expended.
6. On what Roads money to be expended.
7. Bonds by Commissioners.

Passed 1st May 1854.

Be it enacted, &c.—1. There shall be allowed and paid out of the Treasury of the Province to such persons as the Governor in Council shall appoint, in addition to the sums already granted, the following for the purposes hereinafter mentioned, that is to say :—

To His Excellency the Lieutenant Governor the following sums for the Great and other Roads, for building and repairing Bridges, and for opening and improving Roads to and in New Settlements, viz :—

One thousand six hundred pounds from Saint John to Nova Scotia Line : One thousand pounds to be expended from Hayward's Mills to the Nova Scotia Line ; such sum as the Supervisor may find necessary to be paid Commissioners of Sewers in part towards keeping the Aboideau over Au Lac in repair ; and such sum as may be necessary to improve the old Tantamar Road : Six hundred pounds between Saint John County Line and Hayward's Mills ; out of which one hundred pounds to be expended on the Old Westmorland Road between Tisdale's corner and Richard Smith's, via Fetherby's Lake and Beattie's Ferry (so called).

Six hundred and fifty pounds for improving, gravelling, and repairing the Great Marsh Road in the County of Saint John and its vicinity.

Seven hundred pounds from Saint John to Saint Andrews ; seventy pounds of which to be appropriated towards Approaches to Ferry Landing west side of River.

One hundred pounds from Nerepis to Gagetown.

Seventy pounds from Dorchester to Shediac.

Three hundred pounds from Shediac to Petitcodiac.

Seven hundred and fifty pounds from Richibucto to Chatham.

Five hundred pounds from Newcastle to Bathurst, to be expended as follows: From Dixon's Ferry to Tabusintac Bridge,

the sum of two hundred and seventy five pounds ; and from Tabusintac Bridge to Bathurst, the remaining sum of two hundred and twenty five pounds.

One hundred pounds from Bathurst to Belledune.

Six hundred pounds from Belledune to Metis Road.

One thousand two hundred pounds from Fredericton to Woodstock.

Six hundred and fifty pounds from Woodstock to Arestook.

One hundred pounds from Arestook to Grand Falls.

Six hundred pounds from Fredericton to Finger Board, including new Bridge over Estey's Creek, and also one over Jemseg.

Fifty pounds from Bellisle to Scribner's.

One thousand three hundred pounds from Fredericton to Newcastle, Northumberland ; seven pounds of which to be paid W. J. Bedell, Esquire, and twenty pounds to John Wilson for ferrying Mails past year.

Four hundred pounds from Fredericton to Saint Andrews ; two hundred pounds of which to be expended between the Magaguadavic River and Saint Andrews.

Five hundred pounds from Salisbury to Harvey : three hundred and twenty five pounds from Salisbury to the Court House in Hopewell ; the balance between Court House and Isaac Derry's, in Harvey.

Seven hundred and fifty pounds from Shediac to Richibucto.

One hundred and twenty five pounds from Waweg to Saint Stephen.

Sixty five pounds from Woodstock to Houlton.

One hundred pounds from Oromocto to Gagetown.

Four hundred pounds from Oak Bay to Eel River.

Nine hundred pounds from Barker's Landing to Richibucto ; four hundred pounds of which for that portion of the Line in the County of Kent.

Seventy five pounds from Newcastle to Pitfield's ; thirty five pounds of which to be expended between Pitfield's and Queen's County Line ; and the balance of forty pounds between Salmon River and Newcastle.

Four hundred pounds from Grand Falls to Canada Line ; two hundred pounds of said sum to be expended between the Green River Bridge and the Province Line.

Six hundred pounds from Bathurst to Miramichi *via* Pokemouche, to be expended as follows: The sum of three hundred and fifty pounds from Bathurst to Pokemouche River; and the remaining sum of two hundred and fifty pounds from Pokemouche to Miramichi.

Four hundred pounds from Saint John to Quaco, including two new Bridges.

Twenty five pounds from Hampton to Bellisle.

One hundred and fifty pounds from Cole's Island to Cape Tormentine.

Fifty pounds from Lower Landing, Grand Falls, to American Boundary.

Seven hundred and fifty pounds from Albert to Saint John *via* Hammond River; two hundred and fifty pounds of which to be expended from Crooked Creek in Albert to King's County Line; four hundred and fifty pounds from King's County Line to Saint John County Line; fifty pounds in Saint John County.

Two hundred pounds from Isaac Derry's to Point Wolfe.

One hundred and seventy two pounds from Dead Water Brook to Saint Stephen; seventy two pounds of which to be expended in repairing and making the Road from the Woodstock Road, past Brown's Mill, to Wheeler Lawrence's.

One hundred and sixty six pounds from Roix's to Oak Bay; one hundred and sixteen pounds of which for repairs to the Glenelg Bridge on said Road.

One hundred pounds from Tisdale's Farm to Loch Lomond.

Three hundred pounds from Tilley's, Sheffield, past Penleton's Mills, to Petitcodiac.

One hundred pounds from the Baptist Meeting House, Upham, to Church, Sussex Vale.

One hundred and sixty seven pounds from Lower Trout Brook to Lower Town, Saint George; one hundred pounds to be expended north of Pomroy Bridge to the Fredericton Road.

Forty five pounds from Pickard's Store to American Boundary.

Three hundred and fifty pounds from Edmundston to Saint Francis; one hundred pounds to be expended between Edmundston and Baker's Brook.

One hundred and ten pounds from Buttermilk Creek to American Boundary, commencing at the latter.

Five hundred pounds from Patchell's Ferry Landing, Becaguimick, to County Line.

Eight hundred pounds from Fredericton to Saint John *via* Nerepis; eighty pounds of which to be appropriated towards Approaches, Ferry Landing, west side Harbour of Saint John.

One hundred and fifty pounds from Saint John to Indian Town.

Thirty pounds for improving a Road past Roman Catholic Cemetery.

To His Excellency the Lieutenant Governor the sum of nine thousand nine hundred and eighty seven pounds and five pence, being for Special Grants for the Road Service made at the present Session; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of ten thousand pounds, to be applied towards erecting Bridges on such Great Roads of Communication as particularized in the Report of the Select Committee appointed on the ninth day of February last "to take into consideration the state of the Roads throughout the Province, and ascertain the amounts required for repairing and improving the same," in addition to the other amounts for Roads and Bridges therein contained.

Among others are the following Bridges:—

Bridge over Hammond River;

Do. Hampton Ferry;

Do. Trout Creek, on line of Road to Westmorland;

Do. South Bay, Nerepis Road;

Do. Grand Falls;

Bridge near Campbellton;

Shepody Bridge;

Bridge over Nepisiguit River;

Bridge at Musquash;

Bridge at Digdeguash;

Oyster River Bridge, on Great Road leading to Pokenouche;

Bridge over the North West Miramichi;

one thousand five hundred pounds to be allowed for the last mentioned Bridge, in addition to the sum granted last Session : also such sum as may be indispensably required to construct any other Bridge or Bridges on any of the several Great Roads, where such Bridges shall be estimated to cost a sum not less than five hundred pounds and upwards ; it being understood, that in all cases where Draws are necessary, they must be furnished.

To His Excellency the Lieutenant Governor the sum of one thousand five hundred and nineteen pounds for the several Bye Roads in the County of York ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand one hundred and eleven pounds for the several Bye Roads in the County of Carleton ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand five hundred and ninety six pounds for the several Bye Roads in the County of Northumberland ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand and thirty seven pounds for the several Bye Roads in the County of Albert ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of eight hundred and one pounds for the several Bye Roads in the County of Victoria ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twen-

tieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand and seventy seven pounds for the several Bye Roads in the County of Gloucester ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand three hundred and ninety one pounds for the several Bye Roads in the County of Westmorland ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of eight hundred and fifty five pounds for the several Bye Roads in the County of Sunbury ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand six hundred and seventy one pounds for the several Bye Roads in the County of Charlotte ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand six hundred and twenty two pounds for the several Bye Roads in King's County ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand and thirty seven pounds for the several Bye Roads

in the County of Kent ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of eight hundred and fifty five pounds for the several Bye Roads in the County of Restigouche ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand two hundred and ten pounds for the several Bye Roads in the County of Saint John ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

To His Excellency the Lieutenant Governor the sum of one thousand four hundred and fifteen pounds for the several Bye Roads in Queen's County ; to be applied and expended agreeably to a Resolution of the House of Assembly passed on the twentieth day of April in this present year of our Lord one thousand eight hundred and fifty four, and concurred in by the Legislative Council.

2. The said several and respective sums of money, and every part thereof, shall be expended under the direction of such Supervisors and Commissioners as the Governor in Council may be pleased to appoint ; and shall be paid to the several and respective persons who shall actually work and labour in making, completing, and repairing the several Roads and Bridges, or in furnishing materials therefor, at the most reasonable rates that such labour and materials can be provided ; and every Commissioner so to be appointed shall, as early in the season as may be, carefully examine the part of the Road where any sums of money are to be expended, and shall lay out and mark off such allotment or allotments as may conveniently be contracted for, in order that the making or repairing of the same may be let by auction to the lowest bidder ; and in all

such cases, such Commissioners respectively are hereby required to put a sufficient number of notices, not less than ten days previous to such sale, in three or more of the public places in the neighbourhood where the work is to be done, which notice shall specify and describe the work to be performed, and also the place, day, and hour, when and where the same will be let by auction as aforesaid ; and it shall further be the duty of such Commissioners respectively to attend personally at the time and place so appointed, and there to let out to the lowest bidder such allotment or allotments, and at the same time to enter into written Contracts for the faithful performance of the work, in time and manner set forth in such Contracts ; and in cases where the work required to be performed cannot be conveniently let at auction, it shall be the duty of said Commissioners to agree with fit and proper persons to perform the same by days' labour, provided that in no case shall more than one quarter part of any Grant be so expended ; and the said Commissioners shall severally keep an exact account of such moneys, and shall produce receipts in writing of the several and respective persons to whom any part of the said money shall be paid, as vouchers of such payments, and render an account thereof in duplicate, upon oath, (which oath any one of the Justices of the Peace in the several Counties is hereby authorized to administer), one copy of which, with vouchers, to be transmitted to the Secretary's Office on or before the first day of December next, to be laid before the General Assembly at the next Session, and the other copy to be filed in the Office of the Clerk of the Peace in the respective Counties, for public information.

3. The before-mentioned sums of money shall be paid by the Treasurer out of the moneys in the Treasury, or as payments may be made at the same, by Warrant of the Governor in Council.

4. The said Commissioners intrusted with the expenditure of the said several and respective sums of money shall for their time and labour be allowed to retain at and after the rate of five per centum out of the said money so intrusted to them respectively, together with a reasonable compensation for actual labour and work performed by them on the said several Roads and Bridges.

5. The said Commissioners shall expend the said several and respective sums of money on the Roads on or before the first day of October ; provided always, that nothing herein contained shall extend or be construed to extend to prevent any Commissioner from expending moneys after the first day of October, when it shall be necessary to expend the same for building Bridges, removing rocks, stumps, trees, or other obstructions.

6. None of the before-mentioned sums of money, or any part thereof, shall be laid out and expended in the making or improving any alteration that may be made in any of the said Roads, unless such alterations shall have been first laid out and recorded.

7. Every person who may be appointed Commissioner for the expenditure of money hereinbefore granted, and before entering upon the duties of his office, shall enter into a Bond to Her Majesty, Her Heirs and Successors, to the satisfaction of the Executive Government, for the due performing his duty as such Commissioner, and the faithful expenditure of and due accounting for such moneys as shall come into his hands as such Commissioner.

CAP. VI.

An Act in addition to and in amendment of an Act for the better establishment and maintenance of Parish Schools.

Section 1.—Teachers of Parish Schools, allowance raised.

Passed 1st May 1854.

Be it enacted, &c.—1. The Teachers of Parish Schools shall be entitled to receive at and after the following rates, that is to say:—Male Teachers of the first class at and after the rate of thirty seven pounds ten shillings per annum ; of the second class at and after the rate of thirty pounds per annum ; of the third class at and after the rate of twenty two pounds ten shillings per annum ; and Females of the first class at and after the rate of twenty seven pounds ten shillings per annum ; of the second class at and after the rate of twenty two pounds ten shillings per annum ; and of the third class at and after the rate of seventeen pounds ten shillings per annum ; in lieu

of the allowance provided in and by the eighteenth Section of an Act made and passed in the fifteenth year of the Reign of Her present Majesty, intituled *An Act for the better establishment and maintenance of Parish Schools*, or any codification or consolidation of the said Act.

CAP. VII.

An Act for the encouragement of Agriculture.

Section.

1. Agricultural Societies, how incorporated.
2. Object of Societies.
3. Amount to be drawn by such Societies when formed.
4. Amount allowed and proportioned in Counties and Parishes.
5. Disposal of Seeds and Stock.
6. Officers, how and by whom elected.
7. Amount of Premiums and Salaries.
8. Duty of Treasurers as to Accounts and Audit.

Section.

9. Statement of Society's operations, how and when transmitted.
10. Society neglecting; forfeiture.
11. Powers of the officers as to fixing bounds for Shows.
12. Penalty for breach of regulations.
13. Existing Societies when entitled to bounty.
14. Rights of existing Societies under this Act.

Schedule.

Passed 1st May 1854.

Be it enacted, &c.—1. Whenever sixty persons or more shall subscribe and pay in sums of not less than five shillings each, to be applied for the improvement of Agriculture and Domestic Manufactures, and shall subscribe the Declaration (A) in the Schedule, and shall cause a copy of the same to be filed in the Office of the Provincial Secretary, they shall thereupon become a body corporate by such name as they shall designate, with all the privileges and obligations incident to Corporations by Law; but such privileges shall continue so long only as there are sixty members or more, who shall annually raise and pay as aforesaid the sum of fifteen pounds for the improvement of Agriculture.

2. The object of such Agricultural Societies shall be to encourage and promote the introduction of improved stock, seeds, roots, implements, methods of culture, and improvement in farm buildings and domestic manufactories, to hold Shows and Exhibitions, and to give Premiums for excellence, and to diffuse information concerning Agricultural subjects.

3. When an Agricultural Society shall be so constituted in any County, such Society shall be entitled to draw annually from the Provincial Treasury, by Warrant in favour of the President of such Society, treble the amount of the subscriptions so raised and paid as aforesaid, but no County Society

shall be entitled to draw more than one hundred and fifty pounds from the Provincial Treasury in any one year.

4. In Counties where more than one Agricultural Society exists, the Government allowance shall be given on the principle in Section 3, not exceeding for any County the sum of two hundred pounds in any one year, and the same shall be apportioned among such District Societies, in a rateable proportion to the amount of the subscriptions raised and paid by each Society for the year for which the bounty shall be claimed, by Warrant in favour of the President of the respective Societies; no Parish to have more than one Society, and no County to have more than four Societies, under the provisions of this Chapter.

5. In the disposal of seeds, stock, implements, or other property imported by any such Society, such articles shall not be sold for less than the true cost and charges of the same, unless the same shall be sold at public auction, of which at least ten days notice shall be previously given by public advertisement, at which all persons present shall have a right to bid and compete, whether members of the Society or not.

6. Every Agricultural Society shall elect such officers and make such bye laws for their guidance as to them shall seem best, for promoting Agriculture, according to the true intent of this Chapter. Each Society shall file in the Office of the Provincial Secretary a copy of its bye laws.

7. The amount of premiums to be awarded by each Society in any one year shall not exceed the amount of the local subscriptions and donations of the Society; the allowance for Salaries shall not exceed five per cent. of the local subscriptions, donations, and Provincial allowance yearly.

8. It shall be the duty of the Treasurer of each Society to prepare a detailed statement of the amount of income and expenditure of the Society for the year past, which Account shall be duly audited and approved by three members of the Society, and the same shall be sworn to (B) by the Treasurer.

9. It shall be the duty of each Society to transmit to the Provincial Secretary's Office on or before the twenty fifth day of January in each year, a Report of its operations for the past year, together with an estimate of the actual state of the land, crops, implements, stock, culture, and domestic manu-

factures, in the District or County, as nearly in the Form (C) as may be.

10. If any Society shall neglect to render its annual Account and Report as provided by Section 9, it shall forfeit its claim to the Legislative bounty for the year next succeeding.

11. Every Agricultural Society by its Officers is hereby authorized to define bounds for pens and yards, and passages to and about the same, for cattle shows and exhibitions, and also for ploughing matches, and no person shall be permitted to infringe on such bounds unless in conformity with the rules of the Society, without the sanction of one of the officers of the Society present, but no land shall be so occupied without the consent of the owner, nor shall any public highway be so occupied as to obstruct the public use thereof.

12. Any person, after notice thereof, infringing any of the regulations of any such Society by entering within the bounds fixed, shall forfeit ten shillings, to be recovered on the complaint of any officer of the Society, and applied to the use of the County.

13. All existing Agricultural Societies, in order to be entitled to the Provincial bounty, must consist of at least sixty members, and raise annually at least fifteen pounds for the encouragement of Agriculture, as provided in Section 1.

14. The provisions of this Act shall extend to all existing Agricultural Corporations and Societies, but shall not interfere with any property or rights conferred upon or acquired by any such Corporation or Society.

(A)

We whose names are hereto subscribed agree to form ourselves into a Society under the provisions of the Act of Assembly, intituled *An Act for the encouragement of Agriculture*, to be called "The — Agricultural Society;" and we severally agree to pay to the Treasurer of said Society, towards the funds thereof, the sums set opposite our respective names, as our first year's subscription thereto.

| Names of Subscribers. | | | | | Sums subscribed. | | |
|-----------------------|---|---|---|---|------------------|--|--|
| A. B. | - | - | - | - | | | |
| C. D. | - | - | - | - | | | |
| E. F. | - | - | - | - | | | |

(B)

A. B., Treasurer of the ——— Agricultural Society, maketh oath and saith that the foregoing (*or* annexed) Account contains a just and true statement of the income and expenditure of the said Society from the day of last, till the day of ; that the several sums therein specified were actually received and paid by him for the purposes therein set forth, and that the same shews the true state of the funds of the said Society at the time the said Account was balanced and audited.

Sworn to before me the day of 185 .

(C)

Season past—Character of,
Soils of District—Character of,
Crops of District—Principal,
Land cleared during the past Season—Estimate of,
Rotation of Crops in District—Usual,
Wheat—Usual average produce per acre,
 Average for past Season,
 Diseases,
 Remedies suggested,
 Price per bushel,
 Best varieties,
Corn—Same as Wheat,
Oats, do. do.
Rye and Barley, Peas and Beans, do. do.
Buckwheat, Millet, do. do.
Grass, Hay,
Clover and Timothy Seeds,
Root Crops—Potatoes,
 Turnips,
 Mangolds,
Fruit,
Sugar—Maple,
Honey—Bees,
Breeds of Cattle,
Dairy products,
Sheep and Wool,

Pigs and Pork,
Horses—Breeds,
Poultry—Breeds,
Implements and Machinery.
Manures,
Farm Buildings and shelter for Stock,
Proposals for improvement, or other remarks,

Names of President, Vice President, Secretary, Treasurer,
 Directors, Members, Fairs in year, and list of Premiums.

Certified Account.

| | | |
|---------------------------------|---|--------------|
| Balance from previous year, | } | Income. |
| Subscriptions of year past, | | |
| Provincial Grant for year past, | | |
| Other Assets, | | |
| Premiums, | } | Expenditure. |
| Seeds imported, | | |
| Implements, | | |
| Stock, | | |
| Charges of management, | | |

Account Current with Treasurer.

CAP. VIII.

An Act to alter and amend the Act providing for the establishment of Municipal Authorities in this Province.

Section.

1. Repeal of Section.
2. Mode of obtaining Incorporation.
3. Duty of Sheriff as to publication.
4. Presiding Officers at the Meetings.
5. Duty of Collector of Rates as to lists; Penalty.
6. Mode of ascertaining opinion.

Section.

7. Duty of Sheriff as to adjournment.
8. Duty of Town Clerks as to return of votes to Sheriff, and his duty thereon.
9. Duty of Sheriff on two-third vote.
10. When subsequent Meetings may be called.
11. Expenses how ascertained and paid.

Passed 1st May 1854.

Be it enacted, &c.—1. The first Section of an Act made and passed in the fourteenth year of the Reign of Her present Majesty, intituled *An Act to provide for the establishment of Municipal Authorities in this Province*, is hereby repealed; provided that all matters and things heretofore done, and all Municipalities heretofore formed and established under and by virtue of the Section hereby repealed, shall remain in full force and effect in like manner as if the said Section had not been

hereby repealed, any thing in this Act contained to the contrary notwithstanding.

2. If it be desired that any County shall be incorporated under the provisions of the Act of which this is an amendment, the same shall be signified to the Lieutenant Governor in Council in manner following :—At least one hundred of the resident freeholders and householders of the County, paying rates upon property, shall by Petition to the Sheriff, pray that public meetings may be called at some one of the Polling places fixed by law for the election of Representatives to serve in General Assembly, in the several Parishes in the County, for the purpose of taking into consideration the propriety of incorporating the County.

3. The Sheriff shall thereupon give at least three months public notice of the day and hour at which such public meetings shall be held; the notice shall contain a copy of the Petition, and of the names of the signers, it shall be published at least in eight weekly numbers of a Newspaper printed and circulating in the County, if any, and also shall be published by printed hand bills in at least ten of the most public places in each Parish.

4. At the meeting in the Shire Town the Sheriff shall preside, and in the other Parishes the Town or Parish Clerk shall preside.

5. On such notice being given, the Collectors of Rates in each Parish shall, at least ten days previous to the day appointed for such meetings, furnish the officer appointed to preside thereat, with correct lists under oath of all the rate payers upon property within such Parish, who were rated for Parish and County rates at the last assessment, and on failing to deliver such lists, he may be committed by two Justices of the Peace to the County goal, there to remain without bail or mainprize until such lists be furnished.

6. At such meetings it shall be put to vote whether the County shall or shall not be incorporated; and the presiding officer shall take down in writing the names of all resident householders and ratepayers upon property who shall vote on the question, and shall state whether they vote in the affirmative or negative.

7. The Sheriff shall, after taking the question, adjourn the meeting at the Shire Town to some day not more than six days after the first meeting.

8. The Town or Parish Clerks in the several Parishes shall, within two days after the meeting, return to the Shériff of the County the lists of the names of those voting both for and against the incorporation of the County at the said meetings, and the Sheriff shall on the day to which the meeting at the Shire Town shall have been adjourned, cast up the number of those who shall have voted at the several meetings in the County, and shall then publicly declare the number of those voting in the affirmative and negative on the said question.

9. If two thirds of those voting on the question shall have voted in the affirmative, the Sheriff shall certify the same under his hand and seal to the Lieutenant Governor in Council.

10. If it be decided that the County shall not be incorporated, subsequent meetings may be called at any time after six months from the preceding meetings on the like Petition and similar notice for taking the question again into consideration as hereinbefore prescribed.

11. All official expenses attending the holding from time to time of the several meetings for the purpose of ascertaining whether or not a County shall be incorporated, and for the purpose of making the returns thereof as required by law, shall be laid before any General Sessions for the County, and after being audited by such Sessions, shall be ordered by them to be paid out of the County contingencies.

CAP. IX.

An Act relating to Steam Navigation in this Province.

Section.

1. Outward-bound Steamers, what boats and life preservers required for.
2. Sea and River Steamers, what buckets and other apparatus to have on board.
3. Duty of Inspector for such Steamers, and of Owner, Master, and Engineer.
4. Penalty for Master, Owner, or Engineer breaking regulations.
5. Gangways for passengers, what; and lights where and when to be kept.
6. Steamers plying within the Province, what lights and where placed; penalty.
7. Inspectors, how and when to be appointed. Salary.
8. Duty of Inspector, how and when to be performed.
9. Additional duty, what.
10. Inspector how to provide against loss by fire.
11. Certificate of Inspector, for what, when, and how given.

Section.

12. Penalty on Inspector for breach of Act.
13. If Inspector refuse Certificate, what to state.
14. Inspector to keep record of what, and when filed.
15. Passengers' money, when to be refunded.
16. River Steamers, when to anchor; and answer damages to be paid.
17. River Steamers, what boats to carry, and life preservers.
18. Penalties, how recovered and applied.
19. Penalty on Owner for any breach of his duty.
20. Penalty on Master for any breach of his duty.
21. Outward-bound Steamers departing without Certificate, what penalty.
22. Deck vessels and rafts, what lights. Penalty.
23. Repeal of Act, with exceptions.
24. Act when in force, and continuance.

Passed 1st May 1854.

Be it enacted, &c.—1. No sea boat or vessel propelled by steam shall depart from any port or place within the Province, with passengers, without having on board, or attached to such boat or vessel, good, suitable, and sufficient boats, in good condition, properly equipped, as follows :—For every Steamer of the registered tonnage of two hundred tons and upwards, not less than four good boats ; of the registered tonnage of less than two hundred tons, not less than three good boats ; every of such boats to be provided with not less than six oars, and other necessary tackle, and every such boat to be of sufficient capacity to carry not less than twelve adult persons, exclusive of the crews, and shall be of a length of keel not less than seventeen feet ; also one good and sufficient life boat made of metal, fire proof, and capable of sustaining inside and outside fifty persons, with life lines attached to the gunwale at suitable distances ; also not less than six good life preservers, made of suitable material, or floats well adapted to that purpose ; such life preservers or floats shall always be kept in convenient and accessible places in such vessel, and in readiness for the use of passengers.

2. Every steam boat, whether for Sea or River navigation, shall be provided with and have on board in some convenient place, not less than twenty four good and sufficient fire buckets of wood or leather, and six good and sufficient lanterns ; also a suitable number of gauge cocks properly inserted in the boilers of the respective steam boats, and a suitable water gauge and steam gauge indicating the height of the water and the pressure of the steam therein, as the Inspector may direct ; and also one double acting force pump, with chambers of such size as the Inspector may direct, according to the size and route of the steamer, to be worked by steam if steam can be employed, otherwise by hand, and to have a suitable well fitted hose of at least the length of the vessel, according to the direction of the Inspector, kept at all times in perfect order and ready for immediate use, which shall be supplied with water by a pipe connected therewith, and passing through the side of the vessel so low as to be at all times in the water when she is afloat.

3. The Inspector of each port or place, appointed under the

provisions of this Act, is hereby required to regulate and direct the weight to the square inch of the boilers of each steamer belonging to or steaming from the port or place for which he is such Inspector, whether Sea or River steamer; and to certify such regulations and directions in writing to the master or owner of the steamer inspected by him, who with the engineer of the steam boat to which such regulations and directions apply, shall be governed thereby; a printed copy whereof it shall be the duty of the owner or master of the said steam boat to cause to be posted up, and kept posted up in some conspicuous part of the steam boat during the season to which such inspection shall apply.

4. If such master, owner, or engineer, after the Inspector shall have so certified as in the last preceding Section directed, shall act contrary to the said regulations, by putting a greater weight upon the boilers than allowed thereby, such master, or owner, and engineer, shall respectively be subject and liable to a penalty not exceeding fifty pounds for each and every breach of such regulations, to be recovered and applied as hereinafter directed.

5. Every such steam boat or vessel shall be provided with a good, safe, and convenient gangway to the wharf at which she may be lying, such gangway to be not less than two and a half feet wide, with a good hand rail on each side thereof, suitable for embarking and landing of passengers to and from such steam boat or vessel as aforesaid, at all times of tide, such landing or gangway to be separate and distinct from that used for landing or loading coals or cargo; and in all cases when the landing or disembarking of the passengers takes place between sun set and sun rise, a good light shall be placed at each end of such gangway before the passengers be allowed to land, and kept there for not less than one hour after arrival at the wharf or place of landing, or until the landing is finished; and the like case when the embarking of passengers takes place after dark, that is between sun set and sun rise, under the penalty of forty shillings for each and every neglect or breach of duty in this respect, to be paid by the owner or master of such boat or vessel.

6. Every steam boat plying within any of the Harbours, Waters, Bays, and Rivers of the Province of New Brunswick,

and coming to any port or place within the same, shall carry at the mast head of such steam vessel, or upon a staff to be erected over the wheel house not less than ten feet high above the upper deck, at night, during the time she shall be under way, a good, clear, and distinct signal white light, and also one distinct white light under the bow of the boat; and steam tug boats shall carry a red light at the mast head; which lights shall be so kept until along side of the wharf, on coming into port or place of destination, under the penalty for each and every neglect of twenty five pounds, to be paid by the owner or master of such boat or vessel, and to be recovered and applied as hereinafter directed.

7. The Lieutenant Governor in Council is hereby authorized to appoint one Inspector residing in the City of Saint John, and such other Inspectors as may from time to time be found necessary, in other parts of the Province. Such officers shall be designated Inspectors of steam boats, and shall perform the services required of them by this Act. The salary of the Inspector residing at Saint John shall not exceed two hundred pounds per annum, including travelling expenses; the salary of any other Inspector appointed under the provisions of this Act shall be fixed by the Lieutenant Governor in Council; such salary shall be paid quarterly by Warrant of the Lieutenant Governor in Council on the Province Treasurer.

8. The Inspector of each port or place is hereby authorized at all times, and as often as he may judge necessary, to go on board and inspect and examine the hull, boilers, machinery, boats, and other parts and appurtenances of any steamer belonging to or steaming from the port or place for which such Inspector is appointed, employed in carriage of passengers, and to satisfy himself that every such vessel so submitted to his inspection is of a structure suitable for the service in which she is employed, that she has suitable accommodation for her crew and passengers, and is in a condition to warrant the belief that she may be used in navigation as a steamer with safety to life, and that all the requirements of this Law in regard to boats, boilers, machinery, life preservers, and other things, are faithfully complied with; and if he deem it expedient he may direct the vessel to be put in motion, and may adopt any other suitable means to test her sufficiency and her equipments.

9. In addition to such annual inspection, it shall be the duty of such Inspector to examine from time to time steamers arriving and departing so often as to enable him to detect any neglect to comply with the requirements of the Law, and also any defects or imperfections becoming apparent after the inspection aforesaid, and tending to render the navigation of the vessel unsafe; and if he shall discover any omission to comply with the Law, or that repairs have become necessary to make the vessel safe, he shall at once notify the master or owner, stating in the notice what is required.

10. It shall be the duty of the Inspector appointed under this Act to examine and see that suitable and safe provisions are made throughout any such vessel, to guard against loss or damage by fire; and no licence shall be granted if any combustible material liable to take fire from heated iron or any other heat generated on board such vessel, in and about the boilers, pipes, and machinery, shall be placed at less than twelve inches distance from such heated metal or other substance likely to cause ignition, unless a column of air or water intervene between such heated surface and any wood or other combustible material so exposed, sufficient at all times and under all circumstances to prevent ignition; and further, when wood is so exposed to ignition, as an additional preventative it shall be shielded by some incombustible material in such manner as to leave the air to circulate freely between such material and wood; provided always, that when the structure of such steamers is such, or the arrangements of the boilers or machinery is such, that the requirements aforesaid cannot without serious inconvenience or sacrifice be complied with, the Inspector may vary them, if in his judgment it can be done with safety.

11. When the inspection is completed, and the Inspector approves of such vessel and her equipment, he shall at least twice in each Season between the first of April and the first of June, and the first of August and the first of October, make and subscribe a Certificate to the Treasurer, or Deputy Treasurer, substantially as follows:—

“Having examined the Steamer [*name*] of _____, whereof _____ are owners, and _____ is master, on this _____ day of _____, A.D. 185 _____, I, [*Inspector's name*] do certify that she

is in all respects staunch, sea-worthy, and in good condition for navigation; that her engine, machinery, pumps, and boilers are sufficient and suitable to be employed in the carriage of passengers without hazard to life, on the route for which placed, and that the boilers of such steamer can carry with safety from to pounds [*here insert number of pounds*] per square inch, and no more: And I further certify that the equipment of the vessel throughout, including boats, life boats, life preservers, lights, and other things, is in conformity with the provisions of the Law: And I declare it to be my deliberate conviction, founded on the inspection I have made, that the said steamer may be employed in the waters hereafter specified, without peril to life from any imperfections, or from materials, workmanship, or arrangements of the several parts, or from age or use. And I further certify that the said vessel is to run in the following waters, viz:—[*Here insert the waters, &c.*]

Which certificate shall be verified by the oath of the Inspector signing, and shall be filed by him in the office of the Treasurer or Deputy Treasurer of the port or place where such examination may be made.

12. Every Inspector who shall be guilty of any neglect of duty required of him under the provisions of this Act, or who shall wilfully certify falsely under this Act, touching any such vessel propelled by steam, her hull, boilers, engines, machinery, pumps, boats, or their appurtenances, or any of her equipments, or any matter or thing contained in any certificate signed, shall on conviction thereof be fined in a sum not exceeding one hundred pounds, or imprisoned for a period not exceeding twelve months, or both, in the discretion of the Court before which convicted.

13. In case the Inspectors do not grant a certificate of approval, they shall, if required so to do, state in writing under their hands the reasons of their refusing such certificate.

14. Every Inspector shall keep an account and record of every steamer inspected and verified by him during the year, with the dates of such inspections and visits, and of all his official acts and doings, which, in the form of a Report to the Lieutenant Governor, shall annually be laid before the Legislature, together with a record of the certificate of inspections

of vessels, their boilers, engines, and machinery, whether of approval or disapproval.

15. In all cases of an express or implied undertaking to transmit passengers from place to place, or to supply them with food or lodging, if suitable provision be not made of a full and ample supply of good and wholesome food and water, and of suitable lodging for all such passengers, or if ships, vessels, wood boats, rafts, or other craft impeding the progress, are taken in tow without previous and seasonable notice to the passengers before the voyage is commenced, in all such cases the owner or master of such steam vessel shall be liable to refund all the money paid for the passage, and to pay also the damages sustained by such default or delay, and any passenger may in any such case refuse to pay his or her passage money; but nothing in this Section shall apply to vessels or crafts found in distress, or to prevent relief being afforded in such cases.

16. That on any steamer navigating Rivers only, when from darkness, fog, disarrangement of the machinery of the boat, or other cause, the engineer shall be of opinion that the further navigation of the vessel is unsafe, the vessel shall be brought to anchor or moored as soon as prudently may be done, provided that if the person in command shall, after being so admonished by such engineer, pursue such voyage, he may do the same, but in such case both he and the owners of such steamer shall be answerable for all damages which shall arise to the person of any passenger or his baggage on board of such steamer, from so pursuing such voyage contrary to such admonition; and no degree of care or diligence shall in such case be held to justify or excuse the person in command, or the owner or owners.

17. Steam boats intended for and confined to the navigation of Rivers and inland navigation, are required to carry not less than two good boats, provided with four oars, of sufficient capacity to carry not less than twelve persons with safety besides the crew, and also not less than six good life preservers, except steam boats confined to the navigation of the River Saint John from Fredericton upwards, which are hereby required to carry one good boat of the like size, and provided as aforesaid.

18. All penalties and forfeitures imposed by this Act, not exceeding the sum of ten pounds, may be sued for and recovered by summary proceeding with costs of suit, at the suit of Her Majesty's Attorney or Solicitor General, or any person who shall prosecute for the same, before two Justices of the Peace in any County of the Province in which the offence shall have been committed, or the cause of complaint shall have arisen, or in which the offender or party complained of shall and may appear to be; or before the Police Magistrate at Saint John or Portland, for any offence against this Act incurred by the owner, captain, or engineer of any boat plying on the River Saint John, or to or from any place in the City and County of Saint John; and all penalties above ten pounds shall and may be prosecuted and recovered with costs as aforesaid, in any Court of Record in this Province, by bill, plaint, or information, at the suit of Her Majesty's Attorney or Solicitor General, or any person who may prosecute for the same; and all penalties imposed by this Act shall, when recovered, after payment of expenses, be paid into the Province Treasury as part of the Revenue of the Province.

19. The owner or owners of any such steam boat who shall permit such boat to navigate in any of the waters of this Province, or to depart from any port or place in this Province with passengers, without all the provisions and requirements of this Act being fully complied with, shall forfeit and pay for every breach or dereliction of duty for which a penalty is not hereinbefore imposed, a sum not exceeding fifty pounds.

20. The master or officer in charge of any such steam boat or vessel, who shall navigate or depart from any port or place in this Province in such vessel without all the provisions of this Act being complied with, shall forfeit and pay a sum not exceeding ten pounds, in addition to the penalty imposed upon the owner or owners, for every offence.

21. If any steam boat shall depart from any port or place in this Province on a voyage to any other port or place in or out of this Province, without having first procured from the Inspector of steam boats or his Deputy, the requisite certificate of such boat being in all respects provided as is required by this Act, the master or owner thereof shall for each and every such neglect forfeit and pay a fine of not less than fifty pounds in

the discretion of the Court before which prosecuted, to be recovered as other fines are directed to be recovered by this Act.

22. All deck sail vessels and all rafts plying, sailing, floating, or lying on the River Saint John below Fredericton, shall, and are hereby required, while so sailing, plying, floating, or lying at anchor, during the night season, that is between sun set and sun rise, to keep a good signal light, in case of sail vessels at the mast head, and on rafts on a pole or mast not less than ten feet high above the top of the raft, to be firmly placed and kept on some conspicuous part of the raft, under the penalty of five pounds for each and every neglect, to be paid by the master, owner, or person in charge of such vessel or raft, as the case may be, to be recovered and applied as other penalties imposed by this Act are directed to be recovered and applied. This Section shall not apply to rafts while being made up and fastened to the shore so as not to interfere with the navigation of the River.

23. An Act made and passed in the thirteenth year of the Reign of Her present Majesty, intituled *An Act to provide for the greater safety of Passengers on board of Steam Boats*, is hereby repealed; provided always, that the several Commissioners already appointed under and by virtue of the said Act, shall continue in office until others are appointed in their stead, and that all regulations heretofore made, shall continue and remain in force until others shall be made in their stead, and all fines and penalties heretofore incurred under and by virtue of the said Act, may be recovered and applied in the manner provided for in and by the said Act, as if the same had not been repealed.

24. This Act shall not be in force or go into operation till the first day of July in the year of our Lord one thousand eight hundred and fifty four, and shall thence continue and be in force until the first day of July in the year of our Lord one thousand eight hundred and fifty eight, and no longer.

CAP. X.

An Act to continue the Act relating to Dry and Pickled Fish.

Section 1.—Continuation of Act.

Passed 1st May 1854.

Be it enacted, &c.—1. That an Act made and passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to regulate the inspection of Dry and Pickled Fish for home consumption and for exportation*, is hereby continued and declared to be in force until the “Revised Statutes” shall come into operation, and regulations be made relating to such Fish, under the authority of the Title and Chapter authorizing the Justices in Session for any County to make such regulations, when the provisions of such continued Act shall cease to have effect as respects such County.

CAP. XI.

An Act to revive the first, second and third Sections of an Act intituled *An Act in addition to an Act intituled ‘An Act to enable the Justices of the Peace for the several Counties in this Province for the time being, to receive for public uses Grants of Land lying in their respective Counties, and to regulate the Commons belonging to the several Townships or Parishes within the same.’*

Section 1.—Revival of certain Acts.

Passed 20th March 1854.

WHEREAS the said recited Act was repealed by an Act made and passed in the thirteenth year of the Reign of Her present Majesty, intituled *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns and Parishes in this Province*, without any provision being made in lieu thereof, which may not only have the effect of rendering doubtful the titles to Lands that have been given under the provisions of the said Act so repealed, but has rendered inoperative the powers thereby given to the Justices of the Peace named therein ; for remedy whereof,—

Be it enacted, &c.—1. That the first, second and third Sections of the said Act, made and passed in the tenth and eleventh years of the Reign of His Majesty King George the Fourth, intituled *An Act in addition to an Act intituled 'An Act to enable the Justices of the Peace for the several Counties in this Province for the time being, to receive for public uses Grants of Land lying in their respective Counties, and to regulate the Commons belonging to the several Townships or Parishes within the same,'* be and the same are hereby revived and declared to be in full force, virtue, and effect, any thing in the said Act by which the same was repealed to the contrary notwithstanding.

CAP. XII.

An Act to authorize the election of certain Town or Parish Officers.

Section 1.—Election of certain Parish Officers.

Passed 1st May 1854.

Be it enacted, &c.—1. That one or more of the following Town or Parish Officers, namely, Weighers of Hay and Straw, Weighers of Coals, Measurers of Salt, Measurers of Wood or Bark, and Inspectors of Barrels, may be elected in the several Towns or Parishes of this Province, in the same manner and at the same time as other Town or Parish Officers are by law authorized to be elected; and if not so elected, the said Officers may be appointed by the Sessions.

CAP. XIII.

An Act relating to the qualification of Freeholders in certain cases.

Section.

1. Trustees of Freehold Property not entitled to vote.

Section.

2. Penalties for breach of this Act.

Passed 1st May 1854.

Be it enacted, &c.—1. No person possessing a freehold interest in any real estate which is held in trust for charitable, educational, or ecclesiastical purposes, or for a Cemetery or Public Burial Ground, or for any other purpose whatever, shall in respect of such freehold interest be qualified to vote as a

freeholder at any Election for Members to serve in the General Assembly of this Province.

2. Any person or persons voting contrary to the provisions of this Act, shall be liable to such fines and penalties as are imposed by an Act made and passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act relating to the Election of Representatives to serve in the General Assembly.*

CAP. XIV.

An Act relating to the establishing of Polling Places in the Counties of Charlotte, Gloucester, York, Queen's, Saint John, Victoria, Northumberland, and Sunbury.

Section.

1. Polling Places in Charlotte County.
2. Do. Gloucester.
3. Do. York.
4. Do. Queen's.

Section.

5. Polling Places in Saint John County.
6. Do. Victoria.
7. Do. Northumberland.
8. Do. Sunbury.

Passed 1st May 1854.

Be it enacted, &c.—1. The following shall be Polling Places in the County of Charlotte, for the Election of Members to serve in the General Assembly, in addition to those already established by law, that is to say:—

At or near the residence of John King, in the Parish of Saint James; the District commencing at the end of the Bridge at Moore's Mill, thence passing along the Road to the corner near the English Church, thence along the Road through Oak Hill to the Canoose Stream, to include all that part of the said Parish lying to the north and east of the said Road; and

At or near M'Gowan's, New River, in the Parish of Pennfield; the District to be called the Eaton District, east of Popologan River.

2. The following shall be the Polling Places in the County of Gloucester, instead of those now established by law, that is to say:—

For the Parish of Beresford, near the Church of Petit Rocher;

For the Parish of Bathurst, at the Court House in Bathurst;

For the Parish of New Bandon, at or near Thomas Kerr's, at Pokeshaw;

For the Parish of Caraquet, near the Church at Caraquet ;
For the Parish of Saumarez, near the Church at Tracadie,
and at or near Thomas Rivers', Pokemouche ;

For the Parish of Shippagan, near the Church at Shippagan.

3. The following shall be additional Polling Places in the County of York, that is to say :—

For the Parish of Stanley, at or near Logan's, in the Town of Stanley ;

At or near John Cockburn's, in the Harvey Settlement, for all electors residing in that part of the Parish of Kingsclear southwest of a line running magnetic northwest and southeast from the southeast line of Lot number seven, on the Fredericton and Saint Andrews Road, granted to James Taylor ;

At or near Dan. Richards', in Ham Town, Parish of Douglas, for all electors residing in that part of the Parish of Douglas northerly and northeasterly from the rear line of granted Lands fronting on the Saint John and Keswick Rivers, and Jones' Mill Stream ; the Grant to the Nova Scotia and New Brunswick Land Company excepted.

4. The following shall be the Polling Places in the Parishes of Waterborough and Hampstead, in Queen's County, instead of those already established by law, that is to say :—

In the Parish of Waterborough, at or near Abraham Wiggins', Young's Cove, on the south side of the Grand Lake ;

For the Parish of Hampstead, at or near Vanwart's, lower end of Long Island.

5. Instead of the Polling Place established at Musquash for the Parish of Lancaster, in the County of Saint John, the Sheriff shall divide the said Parish of Lancaster into two Districts :—

Number one, Musquash ; number two, Spruce Lake Mills ; the different boundaries to be defined by the Sheriff, who shall give notice thereof as required by law.

6. The following shall be the Polling Places in and for the County of Victoria, instead of those already established, that is to say :—

For the Parish of Grand Falls, at the Grand Falls ;

For the Parish of Andover, opposite the mouth of the Tobique River ;

For the Parish of Perth, at or near Thomas Finn's ;

For the Parish of Saint Leonard, at or near Fermé Ncdeau's ;

For the Parish of Saint Basil, at or near Joseph Cire's ;

For the Parish of Madawaska, at or near Simon Hébert's ;

For the Parish of Saint Francis, at or near Richard Leighey's.

7. The following shall be additional Polling Places in the County of Northumberland, that is to say :—

At or near Flett's Cove, in Nelson, for all electors residing east of the Semogan Bridge on Barnaby River, and all residing on the south side of the South West, east of the upper side of Lot number thirteen, granted to George Henderson, except the electors on both sides of Semogan Road ;

At or near James Hutchison's, in Northesk, for all electors on the east side of the North West, below the lower line of the Grant to the late James Walsh, and all on the west side below the lower line of the Lot formerly owned and occupied by the late Andrew M'Grath ;

At or near Goodfellow's, in Newcastle, for all electors above Grand Down Creek, in Alnwick, and for all the electors in Newcastle below the Mill Stream owned by Gilmour, Rankin, and Company, opposite Middle Island.

8. The following Polling Place is established in the Parish of Sheffield, in the County of Sunbury, in addition to the one already established by law, that is to say :—

At or near William Scott's, Hardwood Ridge, for all electors residing in the New Zion Settlement, and from thence to the northeastern boundary of the said County.

CAP XV.

An Act to regulate the Sale of Spirituous Liquors.

Section.

1. Repeal of Act relating to traffic in liquors.
2. No liquors to be sold without licence.
3. Licences granted by whom, for what sum, and time.
4. In remote situations, how granted.
5. Licence money, to whom paid and for what purpose.
6. Licence, to whom granted, quantity to be sold.
7. Duty of Sessions to make regulations.
8. General Sessions only to grant licence and take recognizance.

Section.

9. Licenced persons guilty of breach of law, proceedings against.
10. Witnesses refusing to appear ; Penalty.
11. Penalty for selling without licence, and if licenced, for less quantity than allowed.
12. Licences, to what period confined.
13. No remedy by Inn Keeper for liquors sold on credit.
14. Penalty in reference to apprentices and minors.
15. Penalty for selling on Sunday, and proceedings.

| Section. | Section. |
|---|--|
| 16. Penalty for licenced persons buying or selling smuggled liquors. | 22. Act to be read by Clerk, when. Presentment, and proceedings thereon. |
| 17. Penalty for inducing Soldiers to desert or exchange regimentals. | 23. Penalties, how applied. |
| 18. Penalty for concealing, &c., article'd Seamen. | 24. Definition of the word "liquors." |
| 19. Duty of Clerks of the Peace as to lists; further proceedings. | 25. Penalty for selling liquors in certain places. |
| 20. Attendance of witnesses before Grand Jury, how obtained. | 26. Burden of proof, when on party prosecuted. |
| 21. Powers of Mayor of Saint John and Fredericton in granting licences. | 27. Powers of Special Sessions to grant licences. |
| | 28. By what forms proceedings to be had. |
| | 29. In incorporated Counties, proceedings. |
| | 30. Continuance of Act. |

Passed 1st May 1854.

Be it enacted, &c.—1. That an Act made and passed in the fifteenth year of the Reign of Her present Majesty, intituled *An Act to prevent the traffic in Intoxicating Liquors*, be and the same is hereby repealed.

2. No person shall directly or indirectly barter or sell any liquors without Licence for that purpose first obtained as hereinafter provided.

3. The General Sessions of the Peace for the several Counties in this Province, are hereby empowered to grant wholesale and Tavern Licences to such and so many persons of good character as they in their discretion shall think proper, to sell Liquors by wholesale, or keep a Tavern within their respective Counties, demanding and receiving for every such Licence a sum not exceeding twenty five pounds, nor less than five pounds, which sum shall be paid into the hands of the Clerk of the Peace of the County where the same shall be granted, together with two shillings and six pence to the said Clerk for his trouble in issuing such Licence; but no wholesale or Tavern Licence shall be in force for a longer period than one year.

4. Nothing in the third Section contained shall prevent any such Court, in their discretion, from granting Tavern Licences for the sum of forty shillings to persons residing in remote situations, when the same shall appear to such Court absolutely necessary for the accommodation of travellers.

5. The Clerks of the Peace of the several Counties, within one week after the Sessions during which any Licences may have been granted, shall pay over to the respective County Treasurers all such money so received by them respectively for Licences so granted, towards defraying the contingent expenses of the County.

6. No Licence to keep a Tavern or Inn shall be granted to any person unless he shall be of orderly and sober habits, and shall have the means of comfortably entertaining travellers; and no person licenced to sell by wholesale any liquors under the provisions of this Act shall sell any such liquor in any quantity less than one pint, nor shall such wholesale dealer permit any such liquor to be drank on his premises.

7. The said Courts shall, from time to time, make and ordain such rules and regulations as they may deem necessary to be observed by wholesale dealers and Tavern Keepers, in their respective Counties, under such penalties as the said Courts respectively may consider right; but in no case to be less than one pound nor more than five pounds, for every breach of such rules and regulations, to be recovered before the Court of Sessions, or any two of Her Majesty's Justices of the Peace of the County where the offence may be committed.

8. No wholesale or Tavern Licence shall be granted in any County in this Province unless at the General Sessions, and every person on obtaining a Licence shall enter into recognizance to Her Majesty in the sum of forty pounds with two good sureties, conditioned to obey such rules and regulations.

9. When it shall come to the knowledge of any such Courts respectively, or of any two of Her Majesty's Justices of the Peace in any County, by complaint or otherwise, that any wholesale dealer, Tavern or Inn Keeper within the jurisdiction of said Court or of the said Justices, has been guilty of a breach of any rule or regulation made as aforesaid, it shall be lawful for the said Court or the said two Justices to cause the offending party to be brought before them at such time as they in their discretion shall appoint; and the said Court or the said two Justices may compel the attendance of any witnesses to give evidence on any proceedings to be had before them respectively, against any person for the breach of any such rules or regulations, or for the recovery of any penalty imposed under the authority of this Act.

10. When any person having been legally served with a Subpœna, shall neglect or refuse to attend according to the exigency of the same, he shall be liable to a penalty not exceeding two pounds for every default, to be imposed by the said Court or the two Justices, unless it shall be made to appear

to the satisfaction of the said Court or Justices that the party subpœnaed had good excuse for non-attendance.

11. If any person shall directly or indirectly sell or barter any liquors without Licence, or if a licenced wholesale dealer shall sell any liquor in any quantity less than one pint, or shall allow any liquor to be drank on his or their premises, every person so offending shall for each offence forfeit a sum not exceeding ten pounds nor less than two pounds, to be recovered with costs of prosecution before the said Court for the County in which the offence shall be committed, or before any Justice of the Peace of the said County, on the oath of a credible witness.

12. No Licence granted under this Act shall entitle any person to keep a Tavern or Inn, or to sell liquor by wholesale in any house or place other than that for which his Licence may have been granted; but in case of the death or removal of any person licenced as aforesaid, before the expiration of the same, it shall be lawful for the said Court of General Sessions, or any Special Sessions, (if they see fit,) to grant to the person succeeding to such Tavern or wholesale premises, a Licence to continue and keep on the same during the residue of the time of the said Licence, but the person so succeeding shall enter into the like recognizance as if he had originally obtained such Licence under the authority of this Act.

13. No Inn Keeper or Tavern Keeper who shall sell upon trust or credit, any liquors, mixed or unmixed, to any person, shall have any remedy against the said person, his executors or administrators, either in Law or Equity, for the recovery of the value thereof; and if any Bill, Bond, Note, Mortgage, or other security or conveyance, shall be made and delivered, the consideration or any part of the consideration of which shall be proved to be for liquors sold, the same shall be deemed and taken to be fraudulent and void in all Courts of Justice; and if any pawn or pledge shall be left by any person with any Tavern or Inn Keeper, it shall be lawful for any Justice of the Peace of the County in which such pawn or pledge may have been given or left, on complaint and proof of the same, to order the said pawn or pledge to be restored, and shall further convict the Inn Keeper or Tavern Keeper who may have received the same in a penalty not exceeding five pounds for each offence.

14. No Tavern Keeper or Inn Keeper shall permit any apprentice to any profession or trade, or any servant, or any person under the age of sixteen years, to sit or remain drinking in his house or premises; nor shall any Tavern Keeper or Inn Keeper sell or give, or suffer to be given or sold, to any servant, or to any person under the age of sixteen years, any liquors, without the order or consent of the master, mistress, parent or guardian of such apprentice, servant, or person under the age aforesaid, under a penalty not exceeding five pounds, to be recovered with costs, on the oath of one credible witness, before any Justice of the Peace of the County where the offence may have been committed.

15. No Tavern Keeper, Inn Keeper, or wholesale dealer, shall sell any liquors, mixed or unmixed, on the Lord's Day, commonly called Sunday, under a penalty not exceeding five pounds nor less than two pounds for every offence, to be recovered upon complaint before any Justice of the Peace of the County where the offence shall be committed; and if any person shall be seen on the Lord's day leaving the premises of any Tavern Keeper or Inn Keeper in a state of intoxication, such Tavern Keeper or Inn Keeper shall be deemed and taken to be prima facie liable to the penalty in this Section mentioned, and shall be convicted in the same, unless he shall make it appear to the satisfaction of such Justice that no liquors were on that day sold or given, directly or indirectly, to such intoxicated person, by such Tavern Keeper or Inn Keeper, or by any person or persons in his employ.

16. Any Tavern Keeper, Inn Keeper, or wholesale dealer, selling, or offering for sale, or having in his possession any liquors, knowing the same to have been illegally imported, shall, on conviction by the oath of a credible witness before any Justice where the offence may be committed, forfeit the sum of five pounds, with costs of prosecution, and his Licence shall be annulled, and he shall not be deemed eligible to receive a Tavern, Inn, or Wholesale Licence, for the space of two years then next ensuing.

17. If any Tavern Keeper, Inn Keeper, or wholesale dealer, shall directly or indirectly persuade or seduce, or attempt to persuade or seduce any Soldier to desert from Her Majesty's Service, or shall assist any such Soldier in deserting or in

concealing himself from such Service, or shall buy, exchange, detain, or otherwise receive any arms, clothing, caps, or other furniture or accoutrements belonging to the Queen, or to any such Soldier or deserter, which are generally deemed Regimental necessities, according to the custom of the Army; or shall exchange, buy, or receive from any Soldier any provisions, unless by consent of the Officer commanding the Regiment or detachment to which such Soldier may belong, it shall be lawful for the Governor in Council to annul the Licence of such Tavern Keeper, Inn Keeper, or wholesale dealer, and immediately on receiving notice of such annulment, he shall thenceforth be deemed to be an unlicenced person, and shall be disqualified from holding or obtaining any Licence whatever for the space of two years from the time of such annulment.

18. Any Tavern Keeper or Inn Keeper convicted of enticing, seducing, harbouring or concealing any artiched Seaman or Apprentice, shall not only forfeit his Licence, but also be disqualified from holding a Tavern Licence for the space of one year from the time of such conviction.

19. The several Clerks of the Peace in the respective Counties, as soon as may be after every General Sessions at which Licences may have been granted, shall transmit to the Town Clerks of the several Parishes a list of the persons licenced to keep an Inn or Tavern, or to sell Liquors by wholesale, in their respective Parishes, and such Town Clerk shall make diligent enquiry and make known to the Clerk of the Peace or to the nearest Justice, if any person be guilty or suspected to be guilty of any breach of the provisions of this Act, or of any regulations made by virtue thereof, in order that the offender may be prosecuted. And the Justices of the several Counties in this Province at their respective General Sessions of the Peace, may order such sum of money to be paid to each of the said Town Clerks from the funds of the County, to remunerate them for the duty hereby imposed, as such Justices in their discretion may think fit.

20. Whenever the Grand Jury at any Court of General Sessions of the Peace, in any of the Counties of this Province, shall deem it to be necessary that any person should be brought before them as a witness to make known any offender against the provisions aforesaid; and shall present to the said Court

the name of such witness, such Court may forthwith issue a Subpœna to compel his attendance, and appearing he shall be sworn in open Court to make true answers to such questions as shall be asked by any of the said Grand Jury touching any offence against the provisions aforesaid, and shall immediately attend the Grand Jury for that purpose; but no witness shall be compelled to criminate himself.

21. The Mayor of the City of Saint John and also of the City of Fredericton may ask, demand, and receive for every Licence by him to be granted, under the Charter of the said City of Saint John if granted there, and under the Act of Incorporation of the City of Fredericton if granted there, any such sum or sums of money as he and the person to whom such Licence shall be given and granted may agree upon, not exceeding the sum by this Act allowed to be taken in the like cases; and may also licence to sell, and demand therefor the like sum as herein allowed in the case of wholesale dealers, to be applied for the public use of the Mayor, Aldermen and Commonalty of the said Cities of Saint John and Fredericton respectively; but nothing in this Act contained shall interfere with or take away any of the rights or powers already given to the respective Mayors of the said Cities of Saint John and Fredericton, in granting Licences for the sale of Liquors.

22. This Act shall be publicly read by the Clerk of the Peace at the opening of every Court of General Sessions of the Peace in the several Counties in this Province, and the Justices of such Courts shall at the same time cause a list of all the holders of Licences in the respective Counties to be delivered to the Grand Jury at such Courts respectively; and it shall be given in charge to such Grand Jury to make diligent enquiry and presentment of all persons found or suspected to be guilty of any offence against this Act; and upon such presentment the Justices of any such Court may proceed against the offenders in the manner hereinbefore directed; and all penalties shall, upon the recovery thereof, be paid to the respective County Treasurers, to be applied to the same purposes and under the same directions as the sums of money paid for Licences are hereinbefore directed to be applied.

23. All penalties recovered under this Act, not prosecuted before the Sessions, shall be paid to the County Treasurer of

the County where prosecuted, and one half of every penalty shall be ordered to be paid to the person by whose means the conviction was obtained, and no testimony shall be excepted to on that ground.

24. In this Act, unless there be something in the context to the contrary, the word "Liquors" shall mean Wine, Brandy, Gin, Whiskey, Ale, Porter, Strong Beer, or any other fermented, distilled, alcoholic, or intoxicating liquors.

25. No liquors shall be sold in any booth or shed, or in any place whatever where any public meeting or gathering of people may take place, or within one mile of the same, unless the meeting or gathering be in a City or Town, under the penalty of five pounds for every offence in every case of sale.

26. In all prosecutions for penalties, proof that any person has been found intoxicated on, or coming out of any premises where liquors are permitted to be sold, shall throw the burthen of proof on the party prosecuted.

27. The Justices of any Special Sessions shall have power to grant Licences under this Act before the sitting of the first General Sessions after the passing thereof, to continue only till the meeting of the General Sessions, and they shall demand and receive therefor such sum as to the said Special Sessions shall seem meet.

28. On prosecutions under this Act had before Justices in General Sessions, the forms of any process or conviction may be made conformable as near as may be to the forms prescribed by any Act now or hereafter in force relating to summary convictions before Justices of the Peace, and any such process may be issued and signed by the Clerk of said Court either in Term or Vacation, and the costs of such prosecution shall be the same as are allowed in such Court for like or analogous services; and for any prosecution had before Justices not in Sessions, the mode of proceeding and costs shall be regulated by any Act now or hereafter in force relating to summary convictions before Justices of the Peace.

29. In all Incorporated Counties the Licences to be granted, and regulations to be made under the provisions of this Act, shall be so granted and made by the Warden and Council; and the duties prescribed to be performed by Clerks of the Peace in reference thereto, shall in such Counties be performed by the Secretary Treasurer thereof.

30. This Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and sixty.

CAP. XVI.

An Act to regulate the publication of the Revised Statutes and other Acts of Assembly.

Section.

1. Revised Statutes, publication of.
2. Mistakes, how remedied.

Section.

3. Remaining Statutes, how to be published.

Passed 1st May 1854.

Be it enacted, &c.—1. The Revised Statutes, together with a Table of Contents in front, and an Index, shall form the first Volume of the Acts of Assembly.

2. If any mistake appear in the arrangement of the Parts, Titles, Chapters, or Sections of the Revised Statutes, as they have passed the Legislature, the same may be corrected before printing.

3. The Public Acts of the present Session, together with those remaining unrepealed, may either be introduced into the Volume of the Codified Laws passed the present Session, or form a second Volume, as the person or persons that may be appointed to superintend the printing and publication thereof may deem most convenient; and the Local and Private Acts shall form another and distinct Volume; in both cases classifying, but not altering any part thereof, except the formal enacting words, “Be it enacted,” and words of similar import, omitting any repealed Sections, and supplying the headings of contents to each Act, Title, or Chapter, as the case may be, a Table of Contents in front, and an Index.

CAP. XVII.

An Act relating to King's College at Fredericton.

Section 1.—Commissioners appointed, by whom, for what purpose, and their duties.

Passed 1st May 1854.

Be it enacted, &c.—1. That His Excellency the Lieutenant Governor in Council be and he is hereby authorized and required to appoint a Commission, consisting of not more than

five persons, to enquire into the present state of King's College, its management and utility, with the view of improving the same, and rendering that Institution more generally useful, and of suggesting the best mode of effecting that desirable object; and should such Commission deem a suspension of the present Charter desirable, then to suggest the best mode of applying its endowment in the meantime for the educational purposes of the Province, and to make report of their doings to His Excellency the Lieutenant Governor, to be laid before both Branches of the Legislature within twenty days after the opening of the next Session.

CAP. XVIII.

An Act relating to the administration of Justice in Equity.

Passed 1st May 1854.

CHAPTER I.

Of the Jurisdiction, Officers, and Practitioners of the Court.

Section.

1. Transfer of Chancery business to Supreme Court.
2. Practice of Supreme Court in Equity, what shall be.
3. Who to make Rules for farther regulating same, and how.
4. Business of the Court, how to be conducted, and by whom.
5. Orders and Decrees, how to be carried out.
6. Statedittings, when.

Section.

7. Master of the Rolls, office of, abolished, &c.
8. Master in Chancery, office of, abolished; Examiners, how appointed.
9. Solicitors to serve copies of Pleadings and prepare Processes.
10. Commissioners.
11. Clerk in Equity, his duty.
12. Sheriffs and other officers, general duties.
13. Sheriff to serve Processes of the Court.
14. Common Gaols, what.
15. Explanation of Terms.

Be it enacted, &c.—1. The Supreme Court shall hear and determine in Equity all causes heretofore cognizable by the Court of Chancery, with the like powers and jurisdiction, principles of equity law, and rules of practice, subject to the regulations in the several Chapters of this Title mentioned; and all suits remaining undetermined in Chancery, together with all the rolls, records, and proceedings of the Court, shall be transferred to the Supreme Court, and be there continued and kept; and such suits, with all other causes, be heard, tried, and determined according to the equity jurisdiction hereby established under the name of the "The Supreme Court on the Equity side," or "In Equity;" and the said Court of

Chancery is hereby abolished except where it may be necessary for the transaction of business in cases of lunacy.

2. The practice of the Court of Chancery in England prior to the twenty third day of March one thousand eight hundred and thirty nine, to be applied as has heretofore been done in this Province with respect to the practice of the said Court when this Province was erected, together with the existing rules, orders, practice, and fees, as now established in the Court of Chancery of this Province, whether framed or constituted under the authority of any repealed Act of Assembly or otherwise, subject to the provisions of the several Chapters of this Title, and to any modifications of the whole under the next following Sections, shall be the system of proceeding for the said Supreme Court in Equity.

3. The Court may make, and they are hereby required from time to time to make general rules and orders for carrying the purposes of the Chapters under this Title into effect, and for regulating the times, forms, and mode of procedure, and generally the practice of the Court in respect of the matters to which such Chapters relate, and, so far as may be found expedient, for altering the course of proceeding in the same prescribed in respect of the matters to which this Title relates, or any of them, and from time to time to rescind, alter, add to, and amend the same as the Judges of the said Court, or a majority of them, may deem necessary.

4. The Court shall always be open, and every matter, whether interlocutory or on the hearing of the cause, shall be decided by any one of the Judges, with the same powers as heretofore exercised by the Master of the Rolls, subject to appeal; and every appeal from the decision of a Judge, or from any decision of the Court of Chancery made before this Act comes into operation, shall be made to the Court in Term, which shall have the same authority and jurisdiction therein as the Chancellor has hitherto had on appeal.

5. Every order or decree of a Judge shall be entered and carried out by the officers and Solicitors of the Court as the act of such Court, but when the Judge shall be satisfied that an immediate execution thereof may be necessary, the order or decree under his hand, or execution with his allowance thereon, may at once be issued by the Solicitor with the same

effect as if a part of the ordinary process of the Court, and the papers shall be filed with the Clerk, and other directions obeyed, as the Judge shall prescribe.

6. Besides the ordinary business, stated Sittings in Equity shall be held at Fredericton by any one of the said Judges on the first Tuesday in every month in each year, excepting February and September, and instead of February the Sittings shall be on the last Tuesday in January, for the purpose of hearing all motions and causes cognizable in the said Court.

7. The Master of the Rolls shall be one of the five Judges of the Supreme Court, both at law and in equity, but his salary as such Judge shall, during his incumbency, be paid in the same manner and to the same extent as when Master of the Rolls, without fees or allowances other than for travelling charges or Circuits; and the office of Master of the Rolls is hereby abolished.

8. The office of Master and Master Extraordinary in the Court of Chancery is hereby abolished, and any Barrister who may be at any time appointed by any Judge in any particular cause shall have power to act as an examiner, and on being sworn, shall have power to administer the oath to the witness, and take the examination in such cause; the oath to be taken by any examiner shall be taken and administered according to the established practice.

9. The Solicitors of the plaintiff and defendant respectively shall serve the opposite party with copies of all pleadings and writings drawn and filed by them, and may prepare all processes for signing and sealing.

10. The Commissioners for taking affidavits in the Supreme Court shall have similar powers on the Equity side of the said Court.

11. The Registrar of the Court of Chancery shall be Clerk of the Court on the Equity side, and shall file and have the custody of all papers, make office copies thereof when required, and entries, sign and seal processes, tax all costs, and draw orders and decrees in Equity; and the said office of Registrar is also abolished, except so far as it may be necessary to act in cases of lunacy.

12. All Sheriffs, Deputy Sheriffs, Coroners, Gaolers, Constables, and other officers, shall be aiding, assisting, and obey-

ing the said Court in the exercise of its jurisdiction, whenever required to do so.

13. The Sheriffs, or if interested the Coroners, shall serve or execute within their respective Counties, any process of the Court that may be sent to them for that purpose, and they shall be entitled to the same fees and emoluments in respect of the same as on the Common Law side of the Court.

14. The common gaols of the several Counties shall be the prisons of the said Court.

15. Whenever the term "Court" shall be used in any of the Chapters of this Title, it shall mean the "Supreme Court on the Equity side," and when any Judge shall be required to perform any duty under any of the said Chapters, the same shall mean any Judge of the said Court sitting in Equity, unless there be something in the context repugnant thereto.

CHAPTER 2.

Of the General Procedure.

| Section. | Section. |
|---|---|
| 1. Causes in Equity, how commenced. | 24. Misjoinder of Plaintiffs, how effected. |
| 2. Process, when not to be objected to. | 25. Where parties and property mixed as to interest, how to adjudicate. |
| 3. Proceeding when defendant out of limits of the Province. | 26. If demurrer good for want of equity, how to proceed. |
| 4. Bill, when to file, and what to contain. | 27. Affidavits, how drawn and used. |
| 5. Injunctions, how to be obtained. | 28. Declaratory Decree, how sustained. |
| 6. Do. in what cases allowed, order for, and effect thereof. | 29. Effect of death on one or more parties to suit. |
| 7. Copy of Bill, how to serve on appearance, may be taken pro confesso, when and how. | 30. Change of interest, what effect on suit. |
| 8. Answers, how to be made. Demurrer for want of parties not allowed. | 31. How executors made to account without suit, and to whom. |
| 9. Interrogatories may be filed for plaintiff to answer. | 32. After Decree, how Minutes to be settled, enrolment made, and proceedings thereon. |
| 10. Exceptions to answer, &c., how made. | 33. Mode of appeal. |
| 11. Impertinence, how remedied. | 34. What papers to be used on appeal, and what further proceedings. |
| 12. Answers, Commissions, &c., how to be sworn and returned. | 35. Judge of Probate's decision, how to appeal from. |
| 13. Do. when party out of the jurisdiction. | 36. Mode of effecting sales ordered. |
| 14. After issue Judge to decide what admitted or denied. | 37. Moneys in Equity, how to be vested. |
| 15. Judge may also decide as to evidence, trial, &c. | 38. Registered Memorial of Decree, how to affect lands. |
| 16. Publication of evidence not necessary, but cause to be heard, when. | 39. Court, how to enforce Decrees. |
| 17. Documentary evidence, how to be obtained. | 40. Proceedings for plaintiff after Decree, where defendant out of jurisdiction. |
| 18. Issues, how triable, and for purposes of Injunction. Law points, how decided. | 41. If such defendant return within a certain time, how to proceed. |
| 19. When no objection allowed for want of parties. | 42. If such defendant die, what may be done by his representative, and when. |
| 20. Setting down for same abolished. | 43. If such defendant, being served with copy of Decree, do not appear, to be barred. |
| 21. Parties in case of deceased persons, how supplied. | 44. If such defendant do not appear within certain time, how to proceed. |
| 22. Evidence of documents, how obtained at the hearing. | 45. Deposits to answer costs abolished. |
| 23. Cause, how dismissed, or defects in remedied. | 46. Forms, how valid. |

Schedule of Forms.

1. All causes in Equity, except cases of injunction before hearing, shall be commenced by a Summons (A), which shall include the names of all the defendants, be made returnable within forty days from the service, and be served personally, or by leaving a copy thereof with some adult person at the place of residence or business of the defendant, and connected with his establishment; or if a Corporation, may be served on the head officer, secretary, treasurer, cashier, or principal agent; or if out of the jurisdiction of the Court, on any agent or person having charge of property the subject of the suit, or guardian residing in the Province, or on the defendant in person; and the service shall be proved by affidavit. The subpoena heretofore in use on filing the Bill is hereby abolished; and if a Bill be filed with the prayer of injunction the summons shall be issued as above prescribed.

2. No objection shall be allowed to any process or proceeding in the said Court for want of, or mistake in any christian name, or initials thereof, if the party shall be described by the name by which he is usually called or known, or by which he is accustomed to call himself, except when it may be necessary to set out an instrument in its own words.

3. Whenever it shall be made to appear by affidavit to the satisfaction of a Judge, that any person, his heir or executor, against whom any other person hath any equitable right, is out of the limits of the Province, and that the applicant hath good *prima facie* grounds for filing a Bill against him, an order may be made requiring the defendant to appear at a certain day therein named, which shall be published in the Royal Gazette, and shall continue to be published therein for the space of three months thence next ensuing.

4. On the expiration of forty days after service of the summons, or of the time limited in the order for appearance, no appearance having been entered, or on the appearance of the defendant and notice thereof served, and within three months therefrom, and in injunction causes without previous summons, the plaintiff shall file a Bill similar to the Form (B), with such variations as each case may require, which shall contain a brief narrative of the material facts on which the plaintiff relies, numbering each allegation as in the said form, adhering as near as may be to the brevity of such form, and concluding

with a prayer for specific relief, under which, without a prayer for general relief, he shall have any other relief to which the equities of his case may entitle him. Documentary evidence shall not be inserted at large, but any part of it material to the cause shall be referred to in a concise manner, mentioning in what custody the same may be, if known, for the purpose of reference, or order of production. The Bill shall be sworn to by the plaintiff, or by the agent if filed by him, to the best of his knowledge and belief.

5. In injunction causes, if the application is to be supported by any proof other than the sworn Bill, the same shall be done by a short affidavit stating generally the truth of the facts contained in such Bill, or in any of the separate allegations by number, or setting forth any new facts in confirmation of the same.

6. Whenever an injunction may be required before hearing, the same shall be granted only on special cause shewn, and shall be by Order (C), instead of the writ of injunction. Such order may be applied for to any Judge before or after the Bill filed, on notice to the opposite party, and the application may be heard on production of the Bill, before filing, or of a sworn or certified copy thereof after filing, with affidavits, if any. If the injunction be applied for after answer, the answer, or a sworn or certified copy thereof, may be used by defendant as an affidavit. All these papers shall be left with the Judge, or filed under his direction with the Clerk. In cases of immediate necessity the injunction may be granted in like manner, but without notice, subject to being dissolved or otherwise on sufficient grounds shewn by affidavit on the part of the defendant. The injunction order shall have all the effect of the writ of injunction, and may be dissolved or modified according to circumstances.

7. If the defendant in any suit appear, a copy of the Bill shall be served on his Solicitor, with a copy of the Interrogatories (D), which shall then be filed as part of the plaintiff's Bill; the interrogatories to be founded on the allegations therein contained, and numbered in the same manner as such allegations. If no demurrer, plea, or answer be filed, and a copy thereof served on the plaintiff's Solicitor within one month from such service, or if a Bill be filed for want of appearance,

any Judge at any monthly sitting, may be moved on affidavit of the facts, and on fourteen days notice given to the Solicitor in case of appearance, (and to the defendant if within the jurisdiction, in case of no appearance,) to take the said Bill *pro confesso*, and the same shall be so ordered without further order or proof, unless the defendant produce the certificate of the Clerk, that an appearance, or answer, as the case may be, has been filed before motion made; and the Judge may, on cause shewn by affidavit, grant farther time to put in an answer or demurrer, or for the defendant to appear and plead.

8. If the defendant proceed to answer the said Bill, which he may do whether required or not, it shall be similar to the Form (E), with such variations as in each case may be necessary, and he may include therein any matter material to his defence. Documentary evidence shall only be referred to in the answer in the same manner as in the Bill, except it be necessary in order fully to answer the interrogatories. No demurrer or objection shall be permitted for want of parties or of form; but defects in any Bill, or in the form of any plea, may be submitted to any Judge, who may order an amendment if he deem it necessary, on such terms as to costs or otherwise as he may think just.

9. The defendant in any suit may, after putting in a sufficient answer, and within fourteen days after issue joined, without any Bill of discovery, file interrogatories for the examination of the plaintiff on such points as shall arise out of the defendant's answer, and for the purpose of proving the same, and disproving the plaintiff's case, and deliver a copy thereof to the plaintiff's Solicitor, which shall be answered by the plaintiff in like manner and under the same rules of practice, as defendants are bound to answer plaintiff's Bill.

10. Exceptions to the answer, or to the plaintiff's answer to interrogatories filed as aforesaid, shall be submitted to a Judge for determining as to their sufficiency, within fourteen days from the service thereof, and if not the answer shall be held good.

11. Impertinence in any of the proceedings in any equity cause shall not be excepted to, but a Judge may, on application, direct the costs incurred thereby to be paid by the party introducing the same.

12. All answers, pleas, disclaimers, and examinations, shall be taken without commission or other formality than is required in the swearing and filing of an affidavit; and all returns to commissions or other documents shall be engrossed on paper, subscribed by the persons to whom directed, and delivered by the Solicitor to the Clerk, enclosed in a sealed envelope; which may be opened by the Clerk, and used without proof of such signatures.

13. All answers, pleas, disclaimers, examinations, declarations, and acknowledgments, if made or taken out of the jurisdiction of the Court, may be taken and the oaths administered as in cases of affidavits, and may be returned in like manner as in the last preceding Section; of which, and of the names subscribed to the same, judicial notice shall be taken.

14. After the cause shall be at issue, and before proceeding to proof or to hearing, any Judge, on ten days notice by either party, shall determine what allegations on both sides are admitted by the pleadings, and shall direct the proof to take place on the allegations not admitted; and if the evidence be taken in the usual manner before an examiner, the time for that purpose shall commence to run from such direction.

15. All cases in equity may, after issue, and at the time when the Judge shall settle the points admitted or denied by the pleadings, be ordered to be heard at such time as may be appointed either by evidence taken *viva voce* in open Court before the Judge at one of the monthly sittings, or at any Circuit Court where the majority of the witnesses reside, if the parties desire the same, or the Judge shall so order; and if at any Circuit Court, such causes shall be entered at the foot of the Common Law cases, and heard after the Jury is discharged, the Clerk of the Circuits attending himself or by deputy. The Judge may reserve his decision after full hearing of the case, to be delivered at such time as he shall then or afterwards appoint. Subpœnas for attendance of witnesses in such causes, may be issued by the Solicitors of the parties, and shall be served and obeyed as heretofore in the Court of Chancery, with such alterations in the form as may be required.

16. When evidence shall be taken before an examiner, or plaintiff proceeds after issue on evidence furnished by the answer, or the defendant on evidence furnished by the plaintiff's

Bill, or his answer to defendant's interrogatories, it shall not be necessary to move for publication; but on fourteen days notice by either party, the cause may be set down for hearing at Fredericton, and the evidence may be used, without delivering out copies thereof at such hearing.

17. Any Judge shall on the application of either of the parties in any suit, and on good cause shewn, make an order for the production upon oath of such of the documents in their possession or power relating to the matters in question in the suit; and deal with the same when produced, as shall appear just; but demand shall first be made of copies of the same or of portions thereof, and be shewn to have been refused.

18. Whenever an issue may be found necessary to aid the Judge on the hearing, the same may be ordered by him, and shall be tried, and be subject to a new trial, in the ordinary manner in the Supreme Court. If it be necessary for the purposes of an injunction to have the legal right of any party tried forthwith, the application for the injunction shall be suspended, and the Judge may make an order requiring the Sheriff to summon a Jury before him or some other Judge at a time and place therein to be named, and such Jury shall be summoned by the said Sheriff, and shall attend and try the said issue, and witnesses may be subpoenaed, and all other necessary things may be done in the same manner, and under the like penalties and privileges as in cases of ordinary civil trials by Jury, with the right to a new trial as in other cases. If the legal right or title of the party seeking relief can be established under the evidence, or if a case be required to be stated, for the opinion of the Court, without the aid of a Jury, the Judge may determine such right or title, or the point arising for such case, instead of stating the same. And whenever any issue, or question of law, may be determined according to the practice, the Judge shall proceed to the hearing of the said injunction, or the cause, as the case may be, and decree accordingly. In any of these cases the Clerk or his deputy shall attend.

19. No defendant in any Equity suit shall be permitted to object for want of parties, in any case to which the following Rules extend :—

Rule 1.—Any residuary legatee or next of kin may, without including the remaining residuary legatees, or next of kin,

have a decree for the administration of the personal estate of a deceased person.

Rule 2.—Any legatee interested in a legacy charged upon real estate, and any person interested in the proceeds of real estate directed to be sold, may, without including any other legatee, or person interested in the proceeds of the estate, have a decree for the administration of a deceased person.

Rule 3.—Any residuary devisee or heir may, without including any co-residuary devisee, or co-heir, have the like decree.

Rule 4.—Any one of several persons for whom a trust is held under any deed or instrument may, without including any other of such persons, have a decree for the execution of the trusts of the deed or instrument.

Rule 5.—In all cases of suits for the protection of property pending litigation, and in the nature of waste, one person may sue on behalf of himself, and of all persons having the same interest.

Rule 6.—Any executor or trustee may obtain a decree against any one legatee, next of kin, or person for whom a trust is held, for the administration of the estate, or the execution of trusts.

Rule 7.—In all the above cases the Judge, if he shall see fit, may require any other person to be made a party to the suit, and may give the conduct of the suit to such person as he may deem proper, and may make such order, in any particular case, as he may deem just, for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8.—In all the above cases the persons who, according to the practice of the Court, would be necessary parties to the suit, shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may by an order of course have liberty to attend the proceeding under the decree; and any party so served may within three months from such service apply to a Judge to add to the decree.

Rule 9.—In all suits concerning real or personal estate vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested under

the trust in the same manner and to the same extent as the executors in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit with the trustees or executors; but the Judge may upon consideration of the matters on the hearing, if he shall so think fit, order such persons, or any of them, to be made parties.

20. The practice of setting down a cause for hearing merely on an objection for want of parties is hereby abolished.

21. If in any proceeding it shall appear to a Judge that any deceased person interested in the matters in question has no legal personal representative, he may either proceed in the absence of any person representing the estate of such deceased person, or appoint some person to represent such estate for all the purposes of the proceeding, on such notice to such person (if any) as the Judge shall think fit, either specially, or generally, by advertisement in the Royal Gazette, and the order so made by the said Judge, and any orders consequent thereon, shall bind the estate of such deceased person in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person, and such representative had been a party to the proceeding, and had duly submitted his rights and interests to the protection of the Court.

22. All writings may be proved at the hearing, as well when the evidence is taken by the examiner as in other cases, on ten days notice thereof to the Solicitor of the opposite party, whether it be necessary to cross-examine the witnesses thereto, or otherwise; and whenever it may be necessary to save the expense of witnesses' attendance to prove the same, they shall be received in evidence on satisfactory proof by affidavit at such hearing, that copies thereof have been served on the Solicitor of the opposite party fourteen days before the day noticed for hearing, and that no notice has been received seven days before that day that such writings will be required to be proved.

23. Whenever the plaintiff shall be required to take any step in the cause, a Judge on application by any defendant, whether required to answer the Bill or not, for a dismissal of the cause, after fourteen days notice, may order the same, unless good

cause be shewn by affidavit to the contrary; and any mistake by a party in following the course of practice in any proceeding of the said Court may be rectified by order of a Judge on payment of costs, if in his opinion it shall advance the justice of the case.

24. No suit in the said Court shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but whenever it shall appear to a Judge, that notwithstanding the conflict of interest in co-plaintiffs, or the want of interest in some of them, or the existence of some ground of defence affecting any of them, they or any of them may be entitled to relief, the Judge shall have power to grant such relief, and to modify his decree according to the special circumstances of the case, and for that purpose to direct such amendments as may be necessary; and at the hearing, before such amendments are made, to treat any one or more of the plaintiffs as if he or they were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or plaintiffs on the record; and where there may be a misjoinder of plaintiffs, and the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the Judge may at the hearing order the cause to stand revived, and proceed to a decision of the cause, if he shall see fit, and give such directions as to costs or otherwise as may appear just.

25. Any Judge may adjudicate on questions arising between parties interested in the property respecting which the questions may have arisen, or where the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested under the same settlement, will, or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will, or other instrument, to be executed, under the direction of the Judge, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question may have arisen; but if the application be fraudulent, or for any other reason ought not to be entertained, no such adjudication shall be had.

26. Whenever a demurrer will lie to a Bill for want of equity, the Judge on the argument may, if the facts warrant,

instead of dismissing the Bill, order the remedy as at common law; or he may make such other order as to proceeding therein on the Common Law side of the Supreme Court, and for the trial of the same, on such terms as to payment of costs or otherwise, as may appear to him just.

27. Every affidavit to be used in the said Court shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be confined to a distinct portion of the subject, and shall in every case be filed after being used in the Court. Copies of all affidavits and other writings used on any motion or petition, except in cases of injunction or petitions *ex parte*, shall be served on the opposite party six days before being used, those in answer three days, and any in reply, which shall be confined to new matter alleged in such answer, one day, beyond which none shall be allowed.

28. No suit in the said Court shall be open to the objection that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Judge to make binding declarations of right, without granting consequential relief.

29. No suit shall abate where the cause of action shall survive by the death of one or more of the plaintiffs, or defendants; but, upon suggestion of such death, to be entered by the Solicitor on the Bill filed, the suit shall be allowed to proceed without further change, in favour of or against the surviving party, as the case may be; and on the death of one or more plaintiffs or defendants in any suit, where the cause of action shall not survive, it shall only abate as to the person so dying.

30. Whenever it may be necessary to revive a suit by or against the representatives of a deceased party, or on transmission of interest or liability, no Bill of revivor, or supplemental Bill shall be used, but the Judge may, on motion or petition, order that the same stand revived on such terms as may be just.

31. Any person claiming to be a creditor, or the next of kin, or interested in the will of a deceased person, may obtain as of course a Summons (F) from any Judge, requiring the executor of such deceased person to shew cause why an order should not be granted for the administration of the personal estate, or the real estate, when the whole thereof is by devise

vested in trustees for sale and for receipt of the rents and produce thereof; and upon affidavit of the due service of such summons, or on appearance of such executor, and affidavit of such other matters (if any) as such Judge shall require, he may make the usual order for the administration of the estate, with such variations as may be necessary, which order on being filed with the Clerk along with the summons and affidavits, shall have the force of a decree to the like effect made on the hearing of a cause between the parties; and the same may be granted to such one or more of the claimants, or classes of claimants, in case of application by different persons or classes, and upon such terms as the Judge shall think fit.

32. On making any decree the Clerk shall draw up and submit minutes of the same to the Solicitors on both sides, who may attend the Clerk upon an appointment to be made by him, to settle the same. If any dispute shall arise as to the matter of such decree, the Judge who heard the cause shall on application of either party finally determine such dispute. Instead of enrolment of such decree the Clerk shall keep a Book, in which he shall enter an abstract of the pleadings, and a reference to the evidence, together with the decree in full. But this entry shall not be made until after decision in any case of appeal, and such appeal, as well as an appeal from any order, shall be made within twenty days after the decision of the cause, unless a Term intervene, and then at such Term. No re-hearing, Bill of review, or supplemental Bill in the nature of such Bill, shall be permitted; but newly discovered facts, or matters allowed on such Bill of review, if stated in the notice of appeal, may be heard and determined on the appeal as in cases of new trial. A certified copy of the entry, or of any part thereof, or a memorial thereof, shall be evidence of such decree, or of the part thereof required, either in Court, or for registry in any County Registry of Deeds and Wills.

33. Every appeal from any decree or order shall be by notice as in cases of new trial, to be served on the opposite party as well as on the Judge who made the same, and shall be heard at the next Term in the same manner, except that no previous rule shall be necessary.

34. In every case of appeal the pleadings, evidence, and all papers used in any stage of the cause, together with the notes

of the Judge who heard the same, or tried any issue therein, shall be produced to the Court on the hearing of the appeal ; from the decision of which no writ of error or appeal shall lie, except to the Queen in Council.

35. Any appeal from a decision of any Judge of Probates shall be to the said Court, and such appeal, together with any now pending, shall be conducted in the same manner, and on the like principles, as if the case had originated in Equity, subject only to the directions of the Act of Assembly relating to appeals from Probate Courts.

36. All sales of real estate ordered by the Judge, shall be conducted by any officer to whom the same may be referred by the Judge, in the same manner as in sales on Bills of foreclosure of mortgages.

37. All moneys subject to the control of the Court, shall be paid into the hands of such person or body corporate, or be vested in such securities, as any Judge shall from time to time direct ; and all increase thereof shall be added to the principal, and distributed therewith to the person entitled to the same.

38. A decree directing the payment of money shall from the time when a memorial thereof shall be registered in any County where there may be lands of a party, bind such lands in the same manner as registered common law judgments.

39. The Court shall have power to enforce performance of its decrees and orders by Execution (G) against the body, or the goods and chattels, lands and tenements (H) of the party made liable to such decree or order, and with the like effect as executions issued on the Common Law side of the Supreme Court ; and no subpoena for costs shall hereafter be allowed.

40. On any decree against any person out of the limits of the Province, a Judge may order process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate of the party proceeded against, or such part thereof as may be sufficient to satisfy the demand of the plaintiff in the suit ; or by causing possession of the estate or effects demanded by the Bill to be delivered to him, or otherwise, as the nature of the case shall require ; and may likewise order the plaintiff to be paid his demand of the estate so sequestered, according to the decree ; but the plaintiff shall first give sufficient security in a sum to be mentioned by the

Judge, to abide such order touching the restitution of such estate, and payment of costs, as may be made in case of the defendant's appearance in such suit. If the plaintiff shall refuse or neglect to give such security, the Judge shall order the estate to remain under the direction of the Court, by appointing a receiver thereof, or otherwise, until the appearance of the defendant, or such order shall be made therein as shall be just.

41. If any decree shall be made as herein last aforesaid, and the person against whom the decree may be, shall within two years after the making thereof come into the Province, within the knowledge of the plaintiff, he shall be served with a copy of the decree within a reasonable time thereafter.

42. If any defendant against whom such decree shall be made shall within two years after the making thereof happen to die without being served with a copy of the decree, his heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, or if such heir shall have been a married woman, infant, or not in his right mind, the husband, guardian, or committee of such heir, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, his personal representative shall be served with a copy of the decree within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir or representative, and where he may be served therewith.

43. If any person served with a copy of such decree shall not within three months after such service appear and petition to have the said cause re-heard, the decree shall stand absolutely confirmed against the party served, his heirs and executors, and all persons claiming or to claim by, from, or under him.

44. If any person served with a copy of such decree shall within three months after such service, or if any person not being served shall within two years next after the making of such decree, appear in Court and petition to be heard with respect to the matter of such decree, and pay down or give security for payment of such costs as may be deemed reasonable, the person so petitioning, his representative, or any person claiming under him, may be admitted to answer the

Bill exhibited, and issue may be joined, and such other proceedings, decree, and execution may be had therein as might have been if the same party had originally appeared; but if no such petition shall be made, all such parties shall stand absolutely barred by such decree.

45. The practice of making deposits to answer costs on certain proceedings in the Court is hereby abolished, and the costs shall be allowed and taxed as in other cases.

46. The Forms in the Schedule to this Chapter, or to the like effect, with the explanations, shall be deemed the same as if incorporated in the Sections to which they refer.

SCHEDULE OF FORMS.

(A)

Summons.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

To

We command you, that within forty days after the service of this Summons on you, exclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court at Fredericton on the Equity side, in a suit wherein a Bill will be filed against you by [and another or others] for [the foreclosure and sale of certain mortgage land and premises, or the specific performance of a certain contract, or in the same brief manner for whatever may be the cause of suit] and observe what our said Court shall direct in this behalf, upon pain of such Bill being taken against you *pro confesso*.—Witness , Chief Justice, at Fredericton, the day of, &c. [day of issuing.]

D. L. R., Clerk.

(B)

Supreme Court, }
Equity Side. }

A. B. Plaintiff, and
C. D. Defendant,

E. F. Counsel for Plaintiff.

1. The plaintiff complains that by virtue of an indenture duly registered [or as the document may be,] dated the day of A. D. 18 , and made between [stating the par-

ties] he is a mortgagee [*or assignee of a mortgagee, describing the date and consideration of the assignment, or as the case may be,*] of certain property therein comprised, situate and described as follows:—[*describe the property particularly*] for securing the sum of £ and interest, which said mortgage, and a bond given therewith, are now in his custody, (*or as the case may be.*)

2. That the time of payment thereof has elapsed, and that the defendant is entitled to the equity of redemption of the said mortgaged premises.

3. The plaintiff therefore prays to be paid the said sum of £ [*whatever may be due*] and interest, with the costs of this suit, and in default thereof, that the equity of redemption may be foreclosed, the mortgaged premises sold, and the produce thereof applied in payment of his said debt and costs, and for that purpose to have all proper directions given and accounts taken.

A. B. [*the Plaintiff.*]

The above named , the plaintiff, was on the day of , A. D. 18 sworn to the truth of this Bill before me.

G. H. *Commissioner, &c. in Equity.*

(C)

Order of Injunction.

Supreme Court, } Between { A. B. *Plaintiff*, and
Equity Side. } { C. D. *Defendant.*

Before His Honor Mr. Justice , the day of , A. D. 18 .

To Mr. C. D. the above named defendant, his workmen, labourers, servants, and agents.

You and each of you are hereby strictly enjoined and commanded under the penalty of £1000 to be levied on your lands, goods, and chattels, and also of imprisonment, to desist henceforth altogether and absolutely from felling or cutting down any timber, or other trees standing, growing, or being in or upon the premises situate and described as follows:—[*describing them as in the Bill, or according to the circumstances*] and from committing or doing any other or further waste or spoil in or

upon the said premises, or any part thereof, until order shall be made to the contrary.

By order of the Court, (*or in case of emergency, Given under my hand the* *day of* , A.D. 18 . . .)

D. L. R., Clerk.

———, Judge, &c.

(D)

Interrogatories for answer.

In the Supreme Court, } Between { A. B. Plaintiff, and
Equity Side. } { C. D. Defendant.

Interrogatories for the examination of the above named defendant in answer to the plaintiff's Bill of complaint.

1. Has not a mortgage been made, given, and duly registered to , of the date, for the sum, and on the premises in the said Bill mentioned, and has not an assignment thereof been made to the plaintiff of the date and for the consideration therein mentioned, or some other and what dates, sums, and premises respectively?

2. Has not the time of payment thereof elapsed, and is not the defendant entitled to the equity of redemption of the said mortgaged premises?

&c. &c. &c.

[Name of Counsel]

(E)

Answer.

In the Supreme Court, } Between { A. B. Plaintiff, and
Equity Side. } { C. D. Defendant.

E. F. Counsel for Defendant.

The answer of C. D. the above named defendant, to the Bill of complaint of the above named plaintiff.

In answer to the said Bill, I, C. D. say as follows:—

1. I admit that the mortgage in the Bill and interrogatories mentioned has been made, given, and duly registered as therein stated (*or as the case may be*), and the assignment has also been made as in the said Bill mentioned.

2. I admit the time of payment has elapsed, and that I am entitled to the equity of redemption in the mortgaged premises.

Sworn, &c.

[Defendant's name.]

(F) :

Summons.

In the Supreme Court, }
Equity Side. }

In the matter of the Estate of late of the Parish of
 , in the County of , deceased.

A. B. }
against }
C. D. }

Upon the application of _____, who claims to be a creditor on the estate of the above named _____, Let _____ the executor of the said _____ attend at my office in _____ (or at my dwelling house), on the _____ day of _____, at _____ of the clock in the _____, and shew cause, if he can, why an Order for the administration of the personal estate of the said _____ should not be granted.—Dated, &c.

Judge in Equity.

NOTE.—If the above named do not attend either in person, or by his Solicitor, at the time and place above mentioned, such Order will be made in his absence as the Judge may think just.

This Summons was taken out by J. K. the Solicitor for the above named .

(G)

Execution against the body, &c. to enforce Order or Decree.

Victoria, &c.

To the Sheriff of

Whereas by a certain Order (or Decree) lately made in our Supreme Court in Equity in a certain cause there depending, wherein A. B. is plaintiff and C. D. defendant, It was ordered, (or decreed) that the said defendant should pay to the said plaintiff the sum of _____, (or should convey to the said plaintiff, &c. a certain piece of land described as follows: or a certain ship or vessel called the _____, or deliver certain property, as the case may be, describing it as in the Decree) as by the said Order (or Decree) remaining as of record in our said Court will more fully appear.* Therefore we command you that you take the said defendant, and him safely keep in your custody

until the said sum of be paid to you for the said plaintiff, (or until the said land, or vessel, &c. be conveyed according to such Decree), and if the said defendant shall not within one month from such arrest, make the conveyance aforesaid, you are hereby commanded to take and give possession of [such land, vessel, or property,] to the said plaintiff; and make return hereof when fully executed.—Witness J. C., Chief Justice, at Fredericton, the day of A. D. 18 [day of issuing].

D. L. R., Clerk.

(H)

Execution against Goods and Chattels.

Victoria, &c.

To the Sheriff of

Whereas &c. [as in the last preceding form to the asterisk.*] Therefore we command you that of the goods and chattels, lands and tenements of the said defendant, you cause to be made the sum of for the said plaintiff, and make return hereof when fully executed.—Witness &c. [as before in last form.]

D. L. R., Clerk.

CHAPTER 3.

Of Proceedings on a Reference.

Section.

1. Reference, when made.
2. What Summons or Warrant required.
3. When and how to proceed on Reference.
4. Examinations, how to be taken thereon.
5. Accounting parties, how to proceed thereon.

Section.

6. Accounts thereon, mode of proof.
7. Objections, how to proceed thereon.
8. Exceptions to report, how to proceed thereon.
9. Subpoenas, how issued.

1. A Reference may be made by a Judge, on the application of either party, to any Barrister, or to any scientific person or accountant, not interested, for any enquiry or other purpose; and the person so specially appointed, on being sworn, shall thereupon become for that purpose an officer of the Court.

2. No summons or warrant shall be issued by any officer on a reference other than to require the parties to proceed, which they shall do forthwith, if required by the officer, with power of adjournment, and, on omission to adjourn, with power to proceed on notifying the parties.

3. If the party obtaining a decree or decretal order directing a reference, shall not within one month from the time of settling the same, proceed therewith before the officer named therein, or if any unnecessary delay take place on any reference, either party, or the officer, may be ordered by a Judge on good cause shewn, peremptorily to proceed with the same, on such pain of dismissal of the cause, or excluding further proof, or payment of costs, or ordering the return of the officer's proceedings and a new reference, as he may deem right.

4. No interrogatories shall be filed on a reference, commission of partition, or the like, but the examinations shall always be *viva voce* by question and answer.

5. Accounting parties shall in all cases be required to file with the officer, on oath, a debtor and creditor account, unless the plaintiff rely on the schedules to the answer. In either case he may supply by additional account and proof any omissions of the defendant, and the officer shall proceed thereon without requiring a charge from the plaintiff or a discharge from the defendant, unless no discharge should accompany the schedules. Any omissions may also be supplied by the defendant. Each party may be examined on oath for or against his own or the opposite party's account. The books or writings of either party, or of any person or party represented by him, or under whom he claims, may also be used in evidence for or against the party producing them, the officer reporting as to the nature of the evidence, when objected to, and the credit due to it.

6. No person shall be required to prove his account, or any part thereof, until the opposite party shall specify the objectionable items, and deny on oath their correctness, and where there are accounts of deceased persons, or of those under whom any party claims, the denial of the representing party shall be to the best of his knowledge and belief, except where he may have personal knowledge of the transactions. If the party refuse so to specify and deny, the officer shall pass the accounts on the oath or examination of the party producing them.

7. All objections on a reference shall be made and argued at the time of presenting the proof, unless postponed for further consideration, and when decided, shall be briefly noted in

the officer's report, and no exceptions grounded thereon shall afterwards be filed with him or argued.

8. Exceptions to the report shall be delivered to the opposite party within fourteen days after notice of the signing thereof, and if the parties cannot agree upon the evidence from which any objection may arise, the officer shall furnish a copy thereof to the party requiring the same, or he may be compelled so to do, on the order of a Judge. On application to a Judge on motion or petition to confirm the report, or upon fourteen days notice to the opposite party by the party objecting, the exceptions shall be heard and decided, without reference back to the officer, unless the case require further investigation by him; but in no case shall a reference back to the officer be ordered, when the defective matter can be supplied by direct investigation of the Judge.

9. The Solicitors of the parties may issue subpœnas for the attendance of any witnesses, with or without the production of writings, before any officer authorized to take any examination, without an authority from him, on being signed and sealed by the Clerk; and for any disobedience of any witness thereto, or for refusing to answer lawful questions before the officer, a Judge may grant an attachment against such witness, and unless good cause be shewn, may order him to be committed on such attachment, or make such other order as may be reasonable.

CHAPTER 4.

Of Infants and Guardians.

Section.

1. Guardian for Infant, how appointed.
2. Infant seized in trust, how to convey.
3. Specific performance of contract, how compelled by Infant.
4. Sale or disposal of Infant's lands, how effected.
5. Conveyance of, when valid, and report required.

Section.

6. Infant, when deemed a Ward of the Court.
7. Sale not to alter the kind of property.
8. Conveyance, what evidence.
9. Officer's report as to Guardians, how confirmed, and recognizance filed, &c.
10. In what cases Guardians may be appointed without reference.

1. A guardian may be appointed for the defence of an infant in any suit in the said Court, on petition of the infant, and proof by affidavit of his signature freely given, together with the consent of the guardian written thereon, and proved in like manner. If the infant be not of sufficient age to write, his

name may be subscribed to the petition by one of his nearest relations.

2. Whenever any infant shall be seized or possessed of any lands, tenements, or hereditaments, by way of mortgage, or in trust only for others, any Judge, on petition of the guardian of such infant, or of any person interested, may by order enable and compel such infant to convey the same to any other person as may be therein directed. Every conveyance made pursuant to such order shall be as effectual as if made by such infant when of lawful age.

3. Any Judge, on petition of the executor of the estate of any person who may have died before the performance of any contract made by him in his life time, or of any person interested in such contract, and on hearing the parties, may compel the specific performance thereof by any infant heir, or other person.

4. An infant seized of real estate, or entitled to any term of years in any lands, may by his next friend or guardian, petition a Judge for an order to sell or dispose of the said property, who shall proceed in a summary way on affidavits to enquire into the merits of such application, and if the disposal of such property or any part thereof be necessary for the support of such infant, or for his education, or if the interest of the infant will be substantially promoted by such disposal, on account of any part of his said property being exposed to waste or dilapidation, or being wholly unproductive, or for any other reasonable cause, the Judge may, on the filing of a bond by such guardian or next friend, or other person approved by the Judge in case he be not already a lawfully appointed guardian, with such sureties and in such form as shall be directed, order the letting for a term of years, the sale, or other disposal of such real estate, or interest, by such guardian or next friend, in such manner and with such restriction as shall be deemed expedient, but not in any case contrary to any last will or conveyance by which such estate or term was devised or conveyed to such infant.

5. All sales, leases, and conveyances, made in good faith by any guardian or next friend in pursuance of such order, shall be as effectual as if made by such infant if of full age, and it shall not be necessary in the conveyance to recite any

part of the proceedings required by this Chapter, but the same shall briefly refer to the order, and the sale, leasing, or other disposal of such property. The officer making the sale shall file a report thereof with the Clerk.

6. Upon any order for the sale of any property being made as aforesaid, the infant to whom the same shall belong shall be considered, so far as relates to such property, a Ward of the Court, and any Judge may make such order for the investment, disposal, and application of the proceeds of such property, and of the increase and interest arising therefrom, as shall secure the same for the infant's benefit.

7. No sale made as aforesaid shall give to such infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold.

8. Every conveyance made under the above provisions, duly acknowledged, or proved, and registered, shall be evidence that all the proceedings on which the same is founded were rightly had.

9. On petition, or motion without petition, to confirm the officer's report, the same may be confirmed accordingly, and the recognizance to be taken on the appointment of any guardian shall be filed with the Clerk, and be subject to such orders touching the recovery of the amount, or any part thereof, in case of any breach of the same, as a Judge shall think fit.

10. In cases where it is made to appear on affidavit that the whole property of an infant does not exceed one thousand pounds, and the nature, description, and value of the property, real and personal, shall be specifically set forth in the petition, together with the names of the infant's relatives, a guardian may be appointed on the presentment of the petition with an affidavit of its truth, without reference, if the Judge to whom the same is presented shall think fit so to order.

CHAPTER 5.

Of the Foreclosure of Mortgages.

Section.

1. Decree for foreclosure and sale of mortgaged premises, how obtained, and proceedings thereon.
2. Conveyance thereon, how to be made, and with what effect.
3. Proceeds of sale, how to be applied.
4. Payment, when to stop foreclosure.
5. If sale ordered of whole of mortgaged premises, and any instalment not due, how to proceed.

Section.

6. Subsequent incumbrances, when part not due, how to proceed.
7. Foreclosure without sale, proceedings thereon.
8. When the mortgage money shall be paid at any time, how to be discharged on Registry.

1. Whenever a Bill shall be filed in the Supreme Court in Equity for the foreclosure and sale of mortgaged premises, any Judge shall have power to decree a sale of the same, or such part thereof as may be sufficient to discharge the amount due on the mortgage with the costs of suit, and on fourteen days notice given to the opposite party, which may be included in the notice of hearing, shall proceed to assess the amount due on such mortgage, whereupon an order shall be made requiring an officer, to be appointed as aforesaid, to proceed to the sale of the mortgaged premises decreed to be sold, reciting such premises and stating the amount found due; and the said officer shall advertise such sale at public auction in one or more of the public Newspapers of the County where the premises are situate, or if no Newspaper be published in such County, in the Royal Gazette, for not less than three months prior to the day of sale, and by printed handbills, one of which shall be posted up at the Court House, one at the Registry Office, and one in some public place in the Parish where the lands are situate, specifying in such advertisement the time and some public place for such sale, and then and there may sell or cause the same to be sold to the highest bidder. If the officer shall find it necessary for want of purchasers or other good cause to postpone such sale, the postponement shall be at least for one month, and shall be noticed during that time at the foot of the former advertisement or otherwise as the said officer may think proper, and so on in case of any subsequent postponement; but nothing herein shall prevent an order of reference in the case of long or complicated accounts respecting such mortgage; and when the officer shall ascertain the amount due, he shall proceed to the sale in the manner herein before directed, subject to any order of a Judge which may be made respecting the same.

2. Immediately upon such sale the said officer shall execute in his own name as such officer, and deliver to the purchaser, a conveyance of the land so sold, which conveyance shall briefly refer to the said decretal order, the advertising, and the sale, and then proceed to convey the same to the said purchaser, which conveyance shall vest in the purchaser the same estate as would have vested in the mortgagee, if the equity of redemption had been foreclosed, and such deed shall be a bar against

all parties to the suit in which such decree was made, and all claiming under them ; and every such conveyance, duly acknowledged or proved and registered in the Registry Office of the County where the lands lie, shall be evidence of the execution, and that all the proceedings on which such conveyance was founded were rightly had.

3. The proceeds of every sale made under the decree aforesaid shall be applied to the discharge of the debt and costs, and if there be a surplus it shall be brought into Court for the use of the person entitled thereto, subject to the order of any Judge, to be made on petition or motion and affidavit, with production of the mortgage or other securities, and notice to other parties interested, or otherwise, as may be ordered.

4. When any suit shall be brought for the foreclosure and sale, or foreclosure alone of any mortgage, the defendant may pay to the plaintiff at any time before sale or foreclosure absolute, the principal and interest with costs, and thereby terminate the suit ; but if a decree of sale or foreclosure shall have passed, and any further amount may thereafter be due thereon, the same shall stand as a security for such further sum, and upon any subsequent default of payment, may be enforced by the further order of a Judge for the sale or foreclosure of the mortgaged premises, as the case may be, or of such part thereof from time to time, as shall be necessary, until the amount secured by the mortgage and the costs of the proceedings therein shall have been fully satisfied.

5. If it shall appear to a Judge that the sale of the whole mortgaged premises will be most beneficial to the parties, the decree shall be entered accordingly, or the Judge, if a reference be ordered, may direct the same to be ascertained by the officer, when the proceeds shall be applied as well to the payment of the amount due with the costs, as towards the residue not due at the time of sale ; and if such residue do not bear interest, the Judge may direct the same to be paid with a deduction of the legal interest for the time during which such residue shall not be due.

6. Where subsequent incumbrances affect any mortgaged premises which may be sold under decree, the residue of the proceeds remaining after the discharge of the first mortgage, shall be subject, under the order of a Judge, to such subsequent

incumbrances according to their priority, whether the same be due or otherwise, and to the like deduction of interest as in the last preceding Section.

7. When any foreclosure shall be decreed, the order for the same shall allow such time for the payment of the money due, with interest and costs, as the Judge shall direct, not to be less in any case than three months, the amount of principal and interest up to the time of payment to be ascertained by him as in the case of a foreclosure and sale, and on non-payment of the amount so found due with the costs, and proof thereof by affidavit, any Judge on motion or petition may order the decree of foreclosure to be made absolute, unless on good cause shewn by affidavit and previous notice to the plaintiff, a Judge may order a further extension of the time for payment of the money due, in which case such extension shall be allowed on such terms as may be prescribed, and so on as often as may be deemed necessary.

8. When the principal and interest of any mortgage, together with the costs (if any) shall be paid by the mortgagor or any person claiming under him, whether the same shall be in suit or otherwise, a Judge may, on satisfactory proof by affidavit of such payment, and on hearing the opposite party, order the mortgagee or person receiving the money to enter satisfaction in the Registry Office where registered, or subscribe and acknowledge a certificate in discharge thereof, such entry or certificate having been first demanded at the cost of the applicant and refused, and may also award costs to such applicant, or prescribe such other terms as the Judge may think just. If the party disobey such order, the Judge, on proof thereof by affidavit, shall direct the Registrar of Deeds, at the cost of the party applying, to enter the satisfaction in the same manner as if done by the party himself, and to enter the order in the registry books referring to the said satisfaction.

CHAPTER 6.

Of Partition of Lands.

Section.

1. Partition of lands, how to be effected.
2. How; if infant be a party.
3. Commissioners, how to be appointed.

Section.

4. Partition, how to be made where interests minute.
5. Decree of Partition, how to pass title.

1. The partition of lands, tenements, and hereditaments, held in co-parcenary, joint tenancy, or tenancy in common, shall be effected by the Supreme Court in Equity.

2. If in any proceeding for a partition, an infant be a party, any Judge may appoint a guardian for such infant.

3. On the order for a Commission in partition, the Judge shall appoint three disinterested Commissioners to make the partition, subject to any reasonable objection by either party.

4. When from the minuteness of the parties' interests in the estate the Commissioners may find it difficult to make a beneficial partition thereof, they may sell the same by portions or otherwise at public auction to the highest bidder, giving not less than one month's previous notice in a Newspaper of the County where the land lies, or if none be published there, in the Royal Gazette, and convey the same to the purchaser; and they shall forthwith make return of their doings, with their opinion as to the value of the several portions directed to be partitioned, to enable the Judge on the confirmation of the return to decree the payment of the several shares according to the proportions so certified. The conveyance made according to the provisions of this Chapter shall be valid notwithstanding any defects in the return of the Commissioners, and when acknowledged or proved, and registered in the Registry Office of the County, the same, or a copy thereof as in other cases, shall be evidence that all the proceedings on which such conveyance is founded were rightly had.

5. The decree of a Judge whereby any portion of lands held in co-parcenary, joint tenancy, or tenancy in common, shall be decreed in severalty, shall transfer to such co-parcener, joint tenant, or tenant in common, all the right, title, and interest of the other parties interested therein, as well infants and married women, as others being parties to such proceedings; but a memorial of such decree shall be made and registered.

CHAPTER 7.

Of the Repeal of Statutes.

Section.

1. Acts specifically repealed.

Section.

2. When this Act to come into operation.
Schedule.

1. The following Acts of Assembly, passed in the several years of the respective Reigns hereinafter mentioned, shall be repealed as soon as this Act comes into operation :—

- 48 G. 3, c. 2. An Act for making Process in Courts of Equity effectual against persons who reside out of this Province and cannot be served therewith.
- 30 G. 3, c. 1. An Act to authorize the Sheriff, or other executive officer serving Process at the Parish of Saint Martins, to convey any prisoner there arrested to the Gaol in the City of Saint John by way of the public road leading through part of King's County.
- 32 G. 3, c. 19. An Act to amend an Act intituled *An Act to provide for the more easy partition of Lands in Co-Partenary, Joint Tenancy, and Tenancy in Common.*
- 3 W. 4, c. 19. An Act in addition to an Act for making Process in Courts of Equity effectual against persons who reside out of this Province and cannot be served therewith.
- 1 V. c. 8. An Act to authorize the appointment of a Master of the Rolls to the Court of Chancery in this Province, and to provide for such officer.
- 2 V. c. 28. An Act to authorize the sale of Mortgaged Premises by the Court of Chancery, and directing the application of the proceeds thereof.
- 2 V. c. 29. An Act relating to the sale and disposition of the Real Estate of Infants.
- 2 V. c. 35. An Act for the improvement of the Practice in the Court of Chancery.
- 2 V. c. 36. An Act relating to the partition of Lands, Tenements, and Hereditaments, held in Co-Partenary, Joint Tenancy, and Tenancy in Common.
- 2 V. c. 37. An Act in amendment of the Act relating to the appointment of a Master of the Rolls in the Court of Chancery.
- 10 V. c. 39. An Act to simplify the proceedings in the Court of Chancery in certain cases.

2. This Act shall come into operation on the first day of September in the year of our Lord one thousand eight hundred and fifty four.

SCHEDULE.

TABLE OF FEES.

First—Examiner, or other officer.*Second*—Clerk.*Third*—Solicitor.*Fourth*—Counsel.*Fifth*—Sergeant-at-Arms.*Sixth*—Sheriff.*Examiner, or other Officer.*

| | | | |
|---|----|----|---|
| Summons, - - - - - | £0 | 2 | 0 |
| Copies of all writings before the Examiner or other officer, per folio, - - - - - | 0 | 0 | 6 |
| Report or certificate on hearing, - - - - - | 1 | 0 | 0 |
| If above ten folio, for every additional folio, - - - - - | 0 | 1 | 6 |
| Report or Certificate on petition or motion, - - - - - | 0 | 10 | 0 |
| If exceeding five folio, for every additional folio, - - - - - | 0 | 1 | 6 |
| Every recognizance, per folio, - - - - - | 0 | 1 | 6 |
| An examination fee for each person, - - - - - | 0 | 3 | 0 |
| Every exhibit signed by an Examiner or other officer, every person shewn to, each - - - - - | 0 | 1 | 6 |
| Every exemplification examined by said Examiner, - - - - - | 0 | 3 | 0 |
| Preparing and executing conveyance of land, - - - - - | 1 | 3 | 4 |
| For every folio in the conveyance above ten folio, - - - - - | 0 | 2 | 0 |
| Preparing advertisement of sale of land, or any other purpose, - - - - - | 0 | 5 | 0 |
| Attending a public sale under his direction, - - - - - | 1 | 3 | 4 |
| Examining and settling a conveyance to be executed by another, - - - - - | 0 | 11 | 8 |
| Swearing a witness, - - - - - | 0 | 1 | 0 |
| Appointing time and place for his examination, - - - - - | 0 | 1 | 6 |
| Taking interrogatories and depositions, per folio, - - - - - | 0 | 2 | 0 |
| Certifying the examination, - - - - - | 0 | 2 | 6 |
| Swearing a party to bill, answer, or other pleading, - - - - - | 0 | 2 | 0 |
| Short attendance on summons, - - - - - | 0 | 6 | 8 |
| Attendance over one, not exceeding two hours, - - - - - | 0 | 13 | 4 |
| Attendance over two hours, not exceeding four hours, - - - - - | 1 | 0 | 0 |
| Every recognizance taken by him, - - - - - | 0 | 3 | 6 |

Clerk.

| | | | |
|---|----|---|---|
| Drawing and entering all orders and rules, per folio, | £0 | 2 | 0 |
| Filing and entering any bill, answer, or other pleading, - - - - - | 0 | 2 | 3 |
| Filing every report or other paper, - - - - - | 0 | 1 | 0 |
| Copies of all orders and reports, per folio, - - - - - | 0 | 1 | 0 |
| Drawing and engrossing on parchment, and copying on paper, same fee as Solicitor for the like services. | | | |
| Signing every copy of affidavit, - - - - - | 0 | 1 | 0 |
| Do certificate, - - - - - | 0 | 2 | 3 |
| Setting down a cause for hearing, or on motion paper, - - - - - | 0 | 1 | 0 |
| Every decree and dismissal, - - - - - | 0 | 5 | 0 |
| Every search, - - - - - | 0 | 1 | 0 |
| Entering attachments, for each person, - - - - - | 0 | 0 | 6 |
| Do. of all amerciaments, - - - - - | 0 | 1 | 0 |
| Do. appearances, - - - - - | 0 | 2 | 0 |
| Signing and sealing any process, - - - - - | 0 | 1 | 6 |
| Every paper read in evidence, - - - - - | 0 | 0 | 6 |
| Taxing a bill of costs, - - - - - | 0 | 3 | 6 |

Solicitor.

| | | | |
|--|---|----|---|
| Retaining fee in each cause, - - - - - | 0 | 15 | 0 |
| Drawing bill, answer, plea, demurrer, or other writing, not otherwise provided for, per folio, | 0 | 1 | 0 |
| Engrossing, per folio, on parchment, - - - - - | 0 | 0 | 8 |
| Copy, per folio, - - - - - | 0 | 0 | 6 |
| Fee for each term, only four allowed, - - - - - | 0 | 5 | 0 |
| Attending to get petition answered, - - - - - | 0 | 6 | 8 |
| Do. Court on every common motion, | 0 | 3 | 4 |
| Do. do. do. special motion, | 0 | 6 | 8 |
| Copy of every order, per folio, - - - - - | 0 | 0 | 6 |
| Serving the same, - - - - - | 0 | 3 | 4 |
| Attending the Court on every hearing or argument, | 0 | 15 | 0 |
| Abbreviating bill, answer, or other proceeding, per folio, - - - - - | 0 | 0 | 4 |
| Every process, - - - - - | 0 | 5 | 0 |
| Every copy, - - - - - | 0 | 2 | 6 |
| Attending Clerk on every decretal order, - - - - - | 0 | 6 | 8 |

| | | | |
|---|----|---|---|
| Serving all papers, - - - - | £0 | 1 | 0 |
| Attending Examiner to file any charge or discharge, - - - - | 0 | 3 | 4 |
| Do on summons or adjournment, - - - - | 0 | 6 | 8 |

For all other services the like fees as are allowed to Attorneys on the Common Law side of the Supreme Court;

Postage actually incurred.

The Solicitor General to have one fourth more in cases that concern the Crown.

Counsel.

| | | | |
|--|---|----|---|
| Retaining fee, - - - - | 1 | 0 | 0 |
| Perusing and signing bill, answer, plea, demurrer, or other special pleading, interrogatories or exceptions, - - - - | 1 | 0 | 0 |
| Every motion of course, - - - - | 0 | 10 | 0 |
| Every special motion, - - - - | 0 | 15 | 0 |

Arguing every plea, demurrer, or other special matter before the Court or on the hearing, fee at the discretion of the Court.

| | | | |
|---|---|---|---|
| Attending the examination of, and examining each witness, - - - - | 0 | 5 | 0 |
|---|---|---|---|

Counsel fees on special matters, where their assistance is necessary and not otherwise provided for, at the discretion of the Court, on the Examiner's certificate.

Sergeant-at-Arms.

| | | | |
|--|---|----|---|
| Taking a prisoner into custody, - - - - | 0 | 13 | 4 |
| Mileage, per mile, - - - - | 0 | 0 | 3 |
| Serving summons to attend an Examiner, - - - - | 0 | 1 | 0 |
| Do. process, - - - - | 0 | 2 | 6 |

Foundage, as on process at Common Law.

Sheriff.

The same as at Common Law.

CAP. XIX.

An Act to regulate the Circuit Courts, and Courts of Oyer and Terminer, and Sittings after Term.

Section.

1. Courts of Nisi Prius for the several Counties, and powers.
2. Times of holding same.
3. Courts of Oyer and Terminer for the same, and powers.
4. How opening regulated.
5. Sittings for York, who to be Clerk of.

Section.

6. Adjournment of such Courts.
7. Officers to attend thereon, and other proceedings.
8. Proceedings, how dealt with on adjournment.
9. Acts and parts of Acts inconsistent, repealed.

Passed 1st May, 1854.

Be it enacted, &c.—1. There shall be Sittings for the County of York, and Circuit Courts, for every County in the Province, at which a Justice of the Supreme Court shall preside, and where issues joined in the Supreme Court shall be tried, and also where all manner of crimes and offences shall be heard, enquired into, tried, determined, and punished, without any Commission.

2. The said Courts shall be holden in the several Counties at the following periods only :—

In the County of York, on the third Tuesday in February, and fourth Tuesday in June.

In the City and County of Saint John, on the second Tuesday in May, and the first Tuesday in November; and there shall be no Circuit Court held in and for the said City and County during the month of May one thousand eight hundred and fifty four.

In the County of Charlotte, on the fourth Tuesday in April, and the Tuesday next after the fourth Tuesday in October.

In the County of King's, on the second Tuesday in July.

In the County of Queen's, on the first Tuesday in March.

In the County of Albert, on the third Tuesday in July.

In the County of Westmorland, on the fourth Tuesday in July.

In the County of Kent, on the Tuesday next after the fourth Tuesday in July.

In the County of Gloucester, on the first Tuesday in September.

In the County of Northumberland, on the second Tuesday in September.

In the County of Carleton, on the last Tuesday in September.

In the County of Sunbury, on the last Tuesday in February.

In the County of Restigouche, on the last Tuesday in August.

In the County of Victoria, on the Wednesday before the last Tuesday in September.

3. Special Courts of Oyer and Terminer and General Gaol Delivery may be held when necessary in any County, with the same powers, privileges, incidents, and duties in all respects as to crimes and offences, as the several Courts provided by this Act, for which purpose a Commission shall be issued as is now the practice.

4. The several Courts shall be opened and commence at the time prescribed therefor, and continue as long as may be necessary for the dispatch of business. If it should happen from any unavoidable cause that a Court should not be opened on the day appointed therefor, the same may be done on the following day, unless it be a day of public rest, then on the next succeeding day; but all proceedings shall be as of the first day, and relate thereto. All parties, witnesses, jurors, and other ministers of the law, shall attend, and be bound by the same penalties in all respects as if the Court had been opened at the proper time.

5. The Clerk of the Crown in the Supreme Court shall be Clerk of the Crown and of Nisi Prius at the Sittings for the County of York.

6. When it may be necessary to finish the business, the presiding Judge may adjourn any of the said Courts to a future day, though a Term of the Supreme Court intervene, and though in case of a Special Court, the time limited by the Commission expire.

7. All parties, ministers of the law, jurors and witnesses summoned, shall, if required by the presiding Judge at the time of adjournment, attend such adjourned Court, or new juries may be drawn and summoned to attend, and be charged with the like pains and penalties for any misdemeanor or default at such adjourned Court, as at the first Court, but no witness in a civil cause shall be liable to any proceeding for non-attendance, unless duly served with a subpoena to attend such adjourned Court, and his expenses be paid or tendered.

8. The record and proceedings shall in all respects be dealt with as if they were expressed to be returnable at the Term

next following the adjourned Courts, and no new cause shall be entered for trial.

9 All Acts and parts of Acts inconsistent with this Act, are hereby repealed.

CAP. XX.

An Act to amend the Law to regulate proceedings before Justices of the Peace in Civil Suits, as relates to Corporations.

Section.

Section.

- | | |
|--|------------------------|
| 1. Repeal of Section, and authority to Justices to sue Corporations. | 2. Mode of proceeding. |
|--|------------------------|

Passed 1st May 1854.

Be it enacted, &c.—1. So much of the provisions of the second Section of an Act made and passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to regulate the proceedings of Justices of the Peace in Civil Suits*, as exempts from the jurisdiction of Justices of the Peace, actions against Corporations, except Banking and Insurance Companies, is hereby repealed, and Justices of the Peace shall have the like jurisdiction over all Corporations, except Banking and Insurance Companies, as are given by the said Act in other cases.

2. All the proceedings against such Corporations shall be by Summons in the form required by the said Act, and shall be served on the Mayor, Warden, President, Head Officer, Secretary, Treasurer, or the accredited Agent or Officer of any Foreign Company transacting business within the Province.

PUBLIC ACTS

UNREPEALED BY THE "REVISED STATUTES."

8th VICTORIA—CHAPTER 1.

An Act relating to certain Lands belonging to Her Majesty, and for vesting the Title to the same in the Principal Officers of Her Majesty's Ordnance Department.

Section.

1. Lands, how and what vested in Ordnance Department.
2. What other Lands.

Section.

3. How Titles received, conveyances and actions made and brought.
4. Limitation of Ordnance Title.

Passed 11th February 1845.

WHEREAS divers Messuages, Lands, Tenements, Estates, and other Hereditaments in this Province, have at various times been set apart from the Crown Reserves and Estates, and placed under the charge of the Officers of the Department of Her Majesty's Ordnance, or of the Governor or Lieutenant Governor respectively for the time being, for Military Defence: And whereas divers other Messuages, Lands, Tenements, Estates, and other Hereditaments in this Province, have at various times been purchased for the use of the Department of Her Majesty's Ordnance, or for Military Defence, and have been conveyed to, or to several different persons in trust for, Her Majesty, and Her Royal Predecessors, and Her and their Heirs and Successors, and the same have been placed under the charge of the said Department, or of the Governor, Lieutenant Governor, or Commander of Her Majesty's Forces in this Province: And whereas it may be expedient that such parts of the said Messuages, Lands, Tenements, Estates, and other Hereditaments as may not be wanted for the service of the said Department, or for Military Defence, should from time to time be sold and disposed of: And whereas for effecting such sales it is necessary that all and every the said Messuages, Lands, Tenements, Estates, and other Hereditaments so already set apart, or placed under charge, or purchased, or used and occupied by or for the service of the said Ordnance Department, and all other Messuages, Lands, Tene-

ments, Estates, and other Hereditaments that may be hereafter purchased, or set apart, or in any manner used and occupied by or for the service of the said Department, should be vested in the Principal Officers of Her Majesty's Ordnance for the time being ;—

Be it therefore enacted, &c.—1. Immediately from and after the passing of this Act, all Messuages, Lands, Tenements, Estates, and other Hereditaments, which have been heretofore set apart from the Crown Reserves and Estates, and placed under the charge of the Officers of the said Ordnance Department, or of the Governor, or Lieutenant Governor, or Commander of Her Majesty's Forces, respectively, for the time being, for Military Defence, or which have been heretofore taken or purchased by, or in the name of, or by any person or persons in trust for Her Majesty or Her Royal Predecessors, and Her or their Heirs and Successors, for the uses or service of the Ordnance Department, or for Military Defence, or which have been used or occupied for those services (by whatever mode of conveyance the same shall have been so purchased or taken) either in fee, or for any life or lives, or any term or terms of years, or any other or lesser interest, and all erections and buildings which now are, or which shall or may be hereafter erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in the Principal Officers of Her Majesty's Ordnance in Great Britain, for the time being, and their successors in the said office, according to the respective nature and quality of the said Messuages, Lands, Tenements, Estates, and other Hereditaments, and the several estates and interests of and in the same Hereditaments respectively, in trust for Her Majesty, Her Heirs and Successors, for the service of the said Ordnance Department, or for such other Public Service or Services as the said Principal Officers, or their successors in the said office, shall from time to time order and direct.

2. From and after the purchase and conveyance, grant or demise, or taking thereof, all other Messuages, Lands, Tenements, Estates, and other Hereditaments which shall at any time or times hereafter be purchased, or by any other mode obtained by the Principal Officers of Her Majesty's Ord-

nance for the time being, or by any other person or persons by their order, or be placed under their charge for the service of the said Ordnance Department, and all erections and buildings which shall then or which may be hereafter erected and built thereon, with the rights, members, easements, and appurtenances to the same respectively belonging, by whatever mode of conveyance, either unto, or in the name of, or in trust for, Her Majesty, Her Heirs and Successors, or howsoever otherwise the same shall be purchased or taken, shall in like manner be and become and remain and continue vested in the said Principal Officers of Her Majesty's Ordnance for the time being, by the style and title of the Principal Officers of Her Majesty's Ordnance in Great Britain, and their successors in office; according to the nature and qualities of the said Messuages, Lands, Tenements, Estates, and other Hereditaments, and the several and respective estates and interests of and in the same respectively, in trust as aforesaid.

3. The said Principal Officers of Her Majesty's Ordnance in Great Britain for the time being, by the style and title of the Principal Officers of Her Majesty's Ordnance in Great Britain, shall be able and capable to accept, receive, and obtain Title to any Lands that may hereafter be granted or otherwise conveyed to them for the purposes aforesaid, and again in the same style and title to convey the same as they may find necessary for the purposes aforesaid, and also in the same style and title to bring and maintain any action of trespass or ejectment, or other action at Law or in Equity, for, of, or concerning any the Messuages, Lands, Tenements, Estates, and other Hereditaments hereby vested or hereafter to become vested in them, under and by virtue of the provisions of this Act.

4. Provided always, that nothing herein contained shall be held or be construed to confer upon, or vest in the said Principal Officers, by the title aforesaid, any greater or better estate or interest in any Lands in this Province than was vested in and remained in the Crown, or in any person or persons in trust for the Crown, at the time of the passing of this Act.

9th VICTORIA—CHAPTER 73.

An Act relating to an exchange of Lands in Fredericton with the Ordnance Department.

Section.

1. What Lands in Fredericton Ordnance may enclose.
2. How vested in Ordnance, and for what purposes.

Section.

3. What Lands of Crown vested in Justices, and how.
4. Suspending clause.

Passed 14th April 1846.

WHEREAS it is desirable that greater facilities should be afforded for the accommodation of Her Majesty's Troops in the City of Fredericton, and it is agreed to surrender certain unenclosed Public Lands in the said City, in consideration for certain other Lands now held by the Ordnance Department being vested in the Justices of the Peace in and for the County of York, for the use of the said City ;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, it shall and may be lawful for the Principal Officers of Her Majesty's Ordnance in Great Britain for the time being, their agents and servants, to enter upon, take possession of, enclose, retain, and enjoy, for Military uses, all that certain parcel and tract of vacant public land, lying and being in front of the present Military Blocks in the said City, and lying between the said Blocks and the River Saint John, bounded on the upper or northwest side by a line running east by the magnet from the northern corner of the fence enclosing Block B, and also all that part of Carleton Street lying between Queen Street and the River, and to enclose the same with fences, walls, gates, and other erections, and to erect a wharf or wharves at the Public Landing, as heretofore reserved at the terminus of Carleton Street ; reserving, nevertheless, the Public Landing at the termination of Regent Street, from the easterly corner of the present enclosure of the "Officers' Parade," so called, extending upwards along the line of the said enclosure two hundred and thirty five feet, and thence at right angles down to the River ; and also reserving to the public a right of way on the said land between the edge of the bank and low water mark, for persons on foot and with horses, carts and wagons, except when such wharf or wharves shall be erected as aforesaid ; and provided that sufficient gates be put up on the present line of Carleton Street,

to form a communication with the River, which are to be always opened to the public in case of fire in the said City; and further provided, that nothing herein contained shall extend or be construed to extend to authorize the said Principal Officers of Her Majesty's Ordnance, or their successors, to interfere with the free navigation of the said River, and the right of approach to the shore in front thereof, by boats, vessels, or other craft, in any other way than by the erection of a wharf or wharves as aforesaid.

2. From and after the passing of this Act, the above described lands and premises, subject to the exception before mentioned, shall be, and become, and remain, and continue vested in the Principal Officers of Her Majesty's Ordnance in Great Britain, for the time being, and their successors in the said office, in trust for Her Majesty, Her Heirs and Successors, for the service of the said Ordnance Department, or for such other Military service or services, as the said Principal Officers, or their successors in the said office, shall from time to time order and direct.

3. From and after the passing of this Act, the following tracts and parcels of Land, now held by the said Principal Officers of Her Majesty's Ordnance Department for Military uses, that is to say, all those six several lots and parcels of Land in Block number three, and all that other piece and parcel of Land called and known as the "Hospital Lot," and fronting partly on Westmorland Street, shall be, and they are hereby vested in the Justices of the Peace for the County of York, and their successors, for and in trust for the use, benefit, and advantage of the inhabitants of the City of Fredericton.

4. That this Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto first had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 1st day of August 1846, and published and declared in the Province the 9th day of September 1846.]

32nd GEORGE 3rd—CHAPTER 9.

An Act to restrain all persons that may be concerned in the collection of Impost Duties, from owning any Vessel, or trading or dealing in Dutiable Articles.

Section 1.—What Revenue Officers not permitted to trade, &c.

Be it enacted, &c.—1. From and after the passing of this Act, neither the Treasurer of the Province, nor any of his Deputies, nor any person or persons concerned in the collection of any Impost Duties made payable by any Act or Acts of Assembly, shall own any vessel or vessels, or any share or shares in any vessel or vessels, trading to and from any Port or Ports in this Province, or shall trade or deal, directly or indirectly, in any article or articles made dutiable by any such Act or Acts, under the penalty of fifty pounds, to be recovered by bill, plaint, or information, in the Supreme Court of this Province, and of being forthwith dismissed from his or their office and offices.

6th VICTORIA—CHAPTER 2.

An Act to amend an Act intituled *An Act to provide for the payment of Interest on Warrants which are not paid at the Treasury on demand.*

Section. 1.—When Interest to be paid on Warrants.

Passed 29th March 1843.

WHEREAS doubts have arisen whether under the provisions of an Act made and passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to provide for the payment of Interest on Warrants which are not paid at the Treasury on demand*, it is lawful for the Treasurer of the Province to pay any Interest due on Warrants, payment of which has been demanded, unless the Warrant itself shall be paid at the same time ;—

Be it therefore enacted, &c.—1. It shall and may be lawful for the Treasurer to pay to the holder or holders of Warrant or Warrants, all sums of money which may be due upon such Warrants for Interest upon the same, although the principal of such Warrants cannot be paid for want of funds in the Treasury; and also the Interest to become due upon all Warrants, semi-annually, on the first day of June and the first day of December in every year, until such Warrants are paid.

2d VICTORIA—CHAPTER 44.

An Act to provide for the prompt payment of all demands upon the Provincial Treasury.

Section.

1. Treasurer may make agreement for advances, what and how.
2. Tenders therefor.
3. After agreement, where public moneys to be lodged.

Section.

4. Rate of Interest.
5. Treasurer's liability, how absolved.
6. Limitation.

Passed 23d March 1839.

WHEREAS it is deemed advisable to empower the Treasurer for the time being of this Province, to enter into agreement with one of the Banks or Banking Companies, or any Branch thereof, now established in the City of Saint John, for advancing to him the said Treasurer, upon the credit of the Province, such sum or sums of money as may be required from time to time for the public service;—

Be it therefore enacted, &c.—1. It shall and may be lawful for the said Treasurer for the time being, and he is hereby authorized and required to receive Tenders from any such Bank, Banking Company, or Branch thereof, in the said City of Saint John, as may be willing to advance such sum or sums of money as aforesaid; and it shall be the duty of the said Treasurer, within thirty days after the passing of this Act, to give public notice by advertisement in at least two of the Newspapers published in the said City, that such Tenders will be received by him at any time or times on or before the first day of June next.

2. It shall be the duty of the said Treasurer forthwith after the said first day of June next, to submit such Tenders as shall have been received by him, to His Excellency the Lieutenant Governor or Commander in Chief for the time being, who shall and may, by and with the advice and consent of Her Majesty's Executive Council, signify to the said Treasurer his approval of such Tender as may be deemed most beneficial for the public interest; and the said Treasurer shall thereupon forthwith accept the said tender and enter into the agreement accordingly, and such agreement shall contain such stipulations for carrying into effect the object thereof, according to the true intent and meaning of this Act, as the said Lieutenant Governor or Commander in Chief for the time being, with the advice and consent of the said Executive Council, shall direct, and

shall be expressed to be made with the Queen's Majesty, Her Heirs and Successors.

3. As soon as any such agreement shall be entered into for the purposes aforesaid, it shall be the duty of the said Treasurer to deposit with the said Bank, or Banking Company, or Branch thereof, so contracting, all the public moneys which from time to time shall come into his possession or control; and the said Bank, Banking Company, or Branch thereof, shall not at any time be in advance to the said Treasurer in a sum exceeding thirty thousand pounds.

4. No contract or agreement as aforesaid shall be entered into by which a higher or greater rate of interest than five per centum per annum shall be agreed to be paid or allowed for any sum or sums of money to be advanced to the said Treasurer under the provisions of this Act.

5. The said Treasurer for the time being shall not be charged or chargeable for any failure or default in performance on the part of the said Bank, Banking Company, or Branch thereof, of any agreement or contract so to be entered into, nor for any loss or damage that may arise from any act, matter, or thing, lawfully done or suffered by him under the provisions and according to the true intent and meaning of this Act; provided always, that for any thing done or suffered by him, not authorized by this Act, the said Treasurer shall be liable to all intents and purposes in the same manner as if this Act had not been made.

6. This Act shall continue and be in force until the first day of June which will be in the year of our Lord one thousand eight hundred and forty one.

12th VICTORIA—CHAPTER 20.

An Act further to continue an Act to provide for the prompt payment of all demands upon the Provincial Treasury.

Section 1.—Continuance of Act.

Passed 27th March 1849.

WHEREAS in and by virtue of the provisions of an Act made and passed in the second year of the Reign of Her present Majesty, intituled *An Act to provide for the prompt*

payment of all demands upon the Provincial Treasury, a certain agreement was made and entered into by and between the Treasurer of the Province and the Bank of New Brunswick, for the purposes of the said Act, which has been continued to the present time: And whereas the aforesaid Act will expire on the first day of April which will be in the year of our Lord one thousand eight hundred and fifty, and it is considered advisable to continue the provisions thereof under certain conditions;—

Be it therefore enacted, &c.—1. An Act made and passed in the second year of Her Majesty's Reign, intituled *An Act to provide for the prompt payment of all demands upon the Provincial Treasury*, be and the same is hereby continued for the further term of five years from the first day of April which will be in the year of our Lord one thousand eight hundred and fifty; and that the Treasurer of the Province be and he is hereby authorized and empowered to continue the agreement at present existing with the said Bank of New Brunswick, during the continuation of this Act; provided always, that no greater rate of interest than five and one half per centum be hereafter paid on the said agreement.

15th VICTORIA—CHAPTER 45.

An Act to reduce the Fees on Militia Commissions.

Section 1.—Fees on Commissions, how reduced.

Passed 26th April 1850.

WHEREAS it is deemed advisable to reduce the Fees now payable on Militia Commissions;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, there shall be charged and paid the following and no other Fees for Commissions to Officers of the Militia, in lieu of the Fees now authorized to be paid under and by virtue of any Ordinance heretofore made and passed in this Province, namely:—Field Officers, twenty shillings; Captains, ten shillings; Subalterns, five shillings.

6th WILLIAM 4th—CHAPTER 14.

An Act to provide for Reporting and Publishing the Decisions of the Supreme Court.

Section.

1. Decisions, by whom to be reported.
2. Copyright, to whom secured.

Section.

3. What amount to receive from Treasury.
4. Limitation.

Passed 8th March 1836.

WHEREAS it is an object of great importance to obtain correct Reports of the Decisions of the Supreme Court in cases heard and determined in the said Court;—

Be it therefore enacted, &c.—1. His Excellency the Lieutenant Governor or Commander in Chief of this Province for the time being, by and with the advice of His Majesty's Executive Council, is hereby authorized to appoint some suitable person learned in the law, to be a Reporter of the opinions, decisions, and judgments which may from time to time be given, made, and pronounced by the Supreme Court of Judicature in this Province, or the Judges thereof, in, upon, or respecting causes pending, or that may hereafter be pending therein; and it shall be the duty of such Reporter, by his personal attendance, or by any other means in his power, to obtain true and authentic reports of such opinions, decisions, and judgments; and such Reporter shall publish not less than two hundred copies of the same in Pamphlets after each Term of the said Court.

2. The sole liberty of printing and reprinting, and publishing such Reports, shall be and the same is hereby vested in and secured to the author and compiler thereof, his heirs and assigns; and if any person shall print, reprint, or publish any such Reports, without the consent of the author and compiler or proprietor thereof, he shall be liable to an action on the case, at the suit of such proprietor, in which action such proprietor shall recover double the damages he may have sustained by any such infringement of the copyright hereby secured to him.

3. In addition to any profits that may arise from the publication and sale of such Reports, such Reporter shall receive annually from the Province Treasury the sum of fifty pounds, to be paid by Warrant of His Excellency the Lieutenant Governor or Commander in Chief for the time being, on the certificate of the Chief Justice of the said Court that such Re-

porter has diligently performed the duties by this Act required of him for the year for which such allowance may be claimed.

4. This Act shall be and continue in force for three years and no longer.

13th VICTORIA—CHAPTER 12.

An Act to continue an Act to provide for Reporting and Publishing the Decisions of the Supreme Court.

Section 1.—Continuation of Act.

Passed 11th April 1850.

Be it enacted, &c. 1.—An Act made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to provide for reporting and publishing the Decisions of the Supreme Court*, be and the same is hereby continued and declared to be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty five.

15th VICTORIA—CHAPTER 85.

An Act for establishing a Tender in all payments to be made in this Province, and for consolidating and amending the Laws relating to the Currency therein.

Section.

1. Unit of Account, what to be. Proviso.
2. United States eagle, what coinage and weight a tender.
3. What British gold coins, and how to be a tender; and what sums tendered by weight.
4. How coins may be struck, &c., for Provincial currency. Limit as to silver and copper coins.
5. Repealed.

Section.

6. Importing coins, how provided for.
7. Other British silver coins in circulation, when a tender; and when circulation may be stopped.
8. Provisions of Act, how extended to Criminal Law.
9. Interpretation.
10. Repeal of Acts. Reservation.
11. Suspending clause.

Passed 7th April 1852.

Be it enacted, &c.—1. The unit of account in this Province shall be the pound, equal to twenty shillings currency of the present currency, and shall be such that the pound sterling, as represented by the British sovereign of the weight and fineness now fixed by the law of the United Kingdom of Great Britain and Ireland shall be equal to, and any such British sovereign shall be a legal tender for one pound four shillings and four pence currency; provided always, that all sums of money and

accounts may be legally mentioned, described, and stated either in dollars and decimal parts of a dollar, or in the present currency.

2. The eagle of the United States coined after the first day of July in the year of our Lord one thousand eight hundred and thirty four, and before the first day of March in the year of our Lord one thousand eight hundred and fifty two, and weighing ten penny weights eighteen grains troy, shall pass and be a legal tender for two pounds ten shillings currency.

3. The gold coins of Great Britain and Ireland, or of the United States coined before the day last aforesaid, being multiples or divisions of those hereinbefore mentioned, and of proportionate weight, shall for proportionate sums pass current and be a legal tender to any amount by tale, so long as such coins shall not want more than two grains of the weight hereby assigned to them respectively, deducting one half penny currency for each quarter of a grain any such coin shall want of such weight; provided always, that in any one payment above the sum of fifty pounds, the person paying may pay or the person to receive may insist on receiving the said British gold coins by weight, at the rate of ninety four shillings and ten pence currency per ounce troy; and in like manner any sums tendered or to be received in the gold coin of the United States may be weighed in bulk as aforesaid, and shall be a legal tender at the rate of ninety three shillings currency per ounce troy, when offered in sums of not less than fifty pounds currency.

4. Such coins representing pounds currency or multiples or divisions of pounds currency, as Her Majesty shall see fit to direct to be struck for the purpose, shall by such names and at such rates as Her Majesty shall assign to them respectively, pass current and be a legal tender in this Province; the standard of fineness of the said coins, when of silver or gold, being the same respectively as that now adopted for coins of the United Kingdom; and the intrinsic value of the said coins, when of gold, bearing the same proportion to that of the British sovereign as the sum for which they are respectively to pass current shall bear to one pound four shillings and four pence of the present currency, or to four dollars eighty six cents and two thirds of a cent; and the intrinsic value of such

coins, when of silver or copper, bearing the same proportion to their nominal or current value which the intrinsic value of British silver or copper coins respectively bears to their nominal or current value ; provided always, that such gold coins shall be a legal tender to any amount by tale so long as they shall not want more than two grains of the standard weight to be assigned to them respectively by Her Majesty, subject to the same deduction for want of weight as is provided by the preceding Section with regard to British and American gold coins, and shall also be a legal tender to any amount by weight in sums not less than fifty pounds currency or two hundred dollars, at the same rate and on the same conditions as provided in this Act with regard to British gold coins ; and provided also, that such silver coins shall not be a legal tender to the amount of more than two pounds ten shillings currency or ten dollars in any one payment, nor such copper coins to the amount of more than one shilling currency or twenty cents in any one payment ; provided further, that the holder of the notes or obligations of any person or body corporate, to the amount of more than two pounds ten shillings currency or ten dollars, shall not be bound to receive in such silver coins more than that amount in payment of such notes if presented at one time, although each or any of such notes be for a less sum.

5. Repealed by 16 Vict. cap. 33. *See post. page 123.*

6. It shall be lawful for the Lieutenant Governor of the Province, with the advice of the said Executive Council, out of any unappropriated moneys, to defray the cost of obtaining and importing such quantity of the said coins respectively, as the said Lieutenant Governor, with the advice aforesaid, shall from time to time think it for the interest of the Province to obtain and import.

7. All British silver coins not herein enumerated and now in circulation, shall be a legal tender for sums not exceeding two pounds ten shillings, at six shillings and one penny for the crown piece, three shillings and a half penny for the half crown, one shilling and two pence halfpenny for the fifth part of the crown, and seven pence farthing for the tenth part of the crown ; provided always, that it shall be lawful for the Lieutenant Governor, by Proclamation in the Royal Gazette, to stop the circulation of the coins in this Section mentioned, giving six months notice in such Proclamation for that purpose.

8. The provisions of an Act passed in the present Session of Assembly, intituled *An Act in addition to and in amendment of an Act relating to the definition of offences and the punishment thereof*, shall so far as the same relate to counterfeit coin, extend to the coins mentioned in or made current by this Act in the same manner and as fully in all respects as if those provisions were herein enacted.

9. The terms and matters following, wheresoever occurring or referred to throughout this Act, shall be understood as hereafter defined, unless it be otherwise specially provided, or there be something in the context repugnant thereto:—The Lieutenant Governor” shall mean the Administrator of the Government for the time being; “currency” and “current” shall mean current money of this Province at the time of the passing of this Act; persons or things used in the singular number shall include persons or things in the plural; and all descriptions of persons or things and words in the plural, shall be understood to be singular unless otherwise provided for as aforesaid; the stamp of the year on each of the coins in this Act specified, shall establish the fact of the coinage at any time within that year, and the stamp on such coins of the country of such coinage, shall establish the fact of the same being the coinage of such country; and all the coins hereby made a legal tender shall be deemed to have the character of standard and weight, except where payments may be made by actual weight, unless objected to on that account, in which case the standard and weight must be ascertained.

10. The several Acts of Assembly following are hereby repealed:—An Act passed in the twenty sixth year of the Reign of His Majesty George the Third, intituled *An Act for establishing a Tender in all payments to be made in this Province*; an Act passed in the fifty eighth year of the same Reign, intituled *An Act in addition to an Act intituled ‘An Act for establishing a Tender to be made in all payments in this Province;’* an Act passed in the fifth year of the Reign of His Majesty William the Fourth, intituled *An Act in addition to the Laws now in force for establishing a legal Tender in all payments to be made in this Province*; and an Act passed in the seventh year of the Reign of Her present Majesty, intituled *An Act to establish the value of certain British coins in this*

Province, and to amend the Acts relating to the establishment of a legal Tender ; provided always, that all payments or tenders of payments heretofore made, and all money transactions completed under any of such laws, shall be good and effectual notwithstanding such repeal.

11. This Act shall not be in force until Her Majesty's Royal approbation be first obtained, nor until a day thereafter to be fixed by Proclamation of His Excellency the Lieutenant Governor duly published in the Royal Gazette.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 30th day of June 1852, and published and declared in the Province the 11th day of August 1852. The Proclamation referred to in Section 11 appointed the 1st day of October 1852, for the Act to come in force. It was first published in the Royal Gazette on 15th Sept. 1852.]

16th VICTORIA—CHAPTER 33.

An Act to amend an Act for establishing a Tender in all payments to be made in this Province, and for consolidating and amending the Laws relating to the Currency therein.

Section.

1. What repealed.

Section.

2. What gold coins to extend to.

Passed 3rd May 1853.

Be it enacted, &c.—1. The fifth Section of an Act passed in the fifteenth year of the Reign of Her present Majesty, intituled *An Act for establishing a Tender in all payments to be made in this Province, and for consolidating and amending the Laws relating to the Currency therein*, shall be and the same is hereby repealed.

2. All the provisions of the said Act, with reference to the gold coins of the United States coined before the first day of March in the year of our Lord one thousand eight hundred and fifty two, shall extend to any gold coins of the United States, of the weight and denomination mentioned in the said Act, coined on or after the said first day of March in the year of our Lord one thousand eight hundred and fifty two, unless such provisions are restrained by Proclamation of the Lieutenant Governor, which Proclamation the Lieutenant Governor, by and with the advice of His Executive Council for the time being, is hereby authorized to issue whenever he, by and with the advice aforesaid, shall deem the same necessary.

58th GEORGE 3rd—CHAPTER 24.

An Act to exclude certain description of persons from serving as Representatives in General Assembly.

Section.

1. What persons disqualified.

Section.

2. Suspending clause.

Passed 11th March 1818.

WHEREAS it is expedient that persons who are engaged as Spiritual Guides and Teachers in the profession of religious faith and worship, should abstain as much as possible from secular affairs;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, no person shall be capable of being elected a Member to serve in Assembly, or of sitting and voting therein, who shall be a Minister of the Church of England, or of the Church of Scotland, or a Minister, Priest, Ecclesiastic, or Teacher, under any other form or profession of religious faith or worship whatever.

2. This Act shall not be in force until His Majesty's Royal approbation be thereunto had and declared.

[This Act was confirmed, finally enacted, and ratified by an Order of the King in Council dated the 6th of February 1821, and was published and declared in the Province on the 12th of June 1821.]

11th VICTORIA—CHAPTER 65.

An Act relating to the Election of Representatives to serve in the General Assembly.

Section.

1. What number of days in Writ for Teste and Return. Sheriff's duty.
2. Remuneration to Sheriffs and other Officers holding Elections.
3. When Poll demanded, for what Districts &c. Election to be held. Proviso as to Saint John.
4. How held where Municipalities divided into Wards. Proviso for City of Saint John.
5. Polling places for each County enumerated, and how divided.
6. Electors, where confined to voting.
7. On division of any Parish, where to vote.
8. Deputies and Poll Clerks, by whom appointed. Duty of Deputies and Poll Clerks. Sheriff's duty on return of Poll Books.
9. On Scrutiny, how objected votes to be decided.
10. Who may administer oaths on, and to whom.

Section.

11. Nomination day, Sheriff's duty as to Candidates.
12. When Candidate's name not to be received.
13. When further adjournment may be made.
14. Names of Candidates, when and how posted up.
15. In case of death, &c. of Sheriff, &c. holding Election, what substitutes and oaths.
16. When Poll not to be opened.
17. Qualification of voters. Members how returned.
18. Qualification by inheritance, &c.
19. Sheriffs', &c. oath.
20. Writ of Election, &c., how and when to be read.
21. Inspectors of Poll Clerks, how appointed. Elector how to give vote, to be sworn, &c. Proviso as to Saint John Freemen.
22. Penalty as to false swearing.

| Section. | Section. |
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| 23. Oath of allegiance, &c., who not required to take. | 38. Writs to Saint John City, how directed. |
| 24. Penalty for corrupt voting, &c. | 39. Members for, by whom and how elected. |
| 25. Penalty for illegal polling. | 40. How to state their right to vote. |
| 26. Candidate's qualification, how declared. | 41. Copy of Poll, when given. Penalties. |
| 27. Temporary Booths, how and where erected. | 42. No promise or gift, &c. for election to be given. |
| 28. Return of Writs, to whom. Penalty, &c. | 43. If given, how incapacitated to serve. |
| 29. What entries to be made in Poll Book. | 44. Qualification of Members of Assembly. Declaration thereof, when to be made. |
| 30. What Returns deemed false, and remedy therefor. | 45. By whom declaration may be made. |
| 31. Sheriff, &c., what authority to preserve the peace at Election, and what Justices, &c. to aid. | 46. Penalty for false declaration. |
| 32. Members, when may vacate their seats. | 47. On trial of information, &c., or before Select Committee, for penalties, &c., what certificate to be evidence. |
| 33. How may vacate their seats. | 48. General Assemblies, how long to continue. |
| 34. How during the recess. | 49. Writs, &c., in what form, &c. |
| 35. When may not be vacated. | 50. Prosecutions, when to be commenced. |
| 36. Vacancies by death during recess, how supplied. | 51. Penalties in other cases, and proceedings. |
| 37. Number of Members to be returned for Assembly. | 52. Construction of Act. |
| | 53. Repeal clause. |
| | 54. Effect of repeal. |
| | 55. Suspending clause. |

Passed 30th March 1848.

WHEREAS it is deemed expedient to amend and consolidate the Laws relating to the Election of Representatives to serve in the General Assembly ;—

Be it therefore enacted, &c.—1. When any new Assembly shall at any time hereafter be summoned in this Province, as also in case of any vacancy during this present Assembly, there shall be forty days between the Teste and return of the Writs or Summonses, and the Clerk of the Crown in Chancery shall issue out the Writs for the election of Members to serve in the same Assembly, with as much expedition as the same may be done ; and as well upon summoning of any new Assembly as also in the case of any vacancy during the present or any future Assembly, the several Writs shall be delivered to the respective Sheriffs ; and every such Sheriff shall upon the back thereof endorse the day he received the same, and within six days after he has received the same Writ, and at least ten days previous to the day appointed for the opening of the respective Polls, shall cause public notice in writing, or by printed handbills, of such Election, to be posted up in three or more of the most public places within each Parish and Ward in his Bailiwick or County ; which notice shall contain the time at which such Election shall be opened and declared at the Shire Town or City, as also the day and places at which the Polls are to be opened within the said County or City, and the Districts, Towns, Parishes, or Wards, for which such Polls shall be so opened, in case a Poll shall be

demande, as hereinafter mentioned; which day so to be appointed for holding the said Poll in the different Districts, Towns, and Parishes within the said County, and Wards in such City, shall not be less than three days nor more than six days after the first day of holding his Court for the said Election, and the said Sheriff shall also give the like notice to two or more of the Constables of each Town or Parish within the County.

2. The Sheriffs of the respective Counties shall each be entitled to have and receive for every Election within their respective Counties, for providing the temporary Booths, or other polling places required by this Act, and discharging the duties required of them respectively by this or any other law or custom now in force, the sum of ten pounds for each and every Election; and for each of his Deputies or presiding Officers appointed under the provisions of this Act to open and hold the Poll at the respective places for that purpose appointed within the County, the sum of twenty five shillings for such Deputy, Under Sheriff, or presiding Officer, for his services in opening and holding such Poll, and six pence per mile for each mile in travelling to and from the same, till the final closing of the Poll by the Sheriff of the County, and also for returning the Poll Book to such Sheriff; and for each Poll Clerk to be by such Sheriff appointed for taking such Polls in the manner hereinafter directed, at the respective places at which the Poll is by this Act directed to be opened and held, the sum of twenty shillings; and in case of a Scrutiny to be granted, as hereinafter mentioned, such Sheriff shall be entitled to have and receive, in addition to the above mentioned allowance, the sum of fifteen shillings per day for each day the Scrutiny shall continue; which allowance to the said Sheriffs respectively, and to the said Deputies and Poll Clerks for holding the Poll, shall be paid out of the Province Treasury, upon the account thereof being submitted to, and audited by the Assembly, at their next Session; but the allowance for holding the Scrutiny shall be paid by the party or parties losing his or their Election upon such Scrutiny, and shall be recovered by such Sheriff by action of debt in any Court of Record in this Province having jurisdiction thereof.

3. Hereafter at every Election of a Member or Members

to represent any County or City in the General Assembly of this Province, at which a Poll shall have been duly demanded and granted according to law, a separate Poll shall be opened and held for every District, Parish, Town, or Ward, as the case may be, into which such County, City, or Town may be divided, and the polling shall commence in all the Districts, Towns, Parishes, or Wards of such County or City respectively, at eight o'clock in the forenoon of the day fixed for taking the Polls for such election, and such Poll shall be kept open till four o'clock in the afternoon, when it shall finally close.

4. Whenever any Town or City in the Province is divided into Wards for Municipal purposes, the Poll for every such Election for such Town or City shall be held at the place in every such Ward which the Sheriff or returning Officer for the time being shall appoint, such place always being the most central, public, and convenient place in such Ward; provided always, that in King's Ward, in the City of Saint John, it shall be lawful for the Sheriff of the City and County of Saint John, and he is hereby required to appoint two public and convenient places for polling in the said Ward, one of such polling places to be to the eastward, and the other to the westward of a line running northwardly through the centre of Charlotte Street and the continuation of such centre line to the City line.

5. There shall be a certain number of convenient places in each County for taking the Poll at all contested Elections hereafter to be held for Members to serve in General Assembly in this Province, at which places respectively, within the said County, the Poll shall be opened on the same day and between the hours as hereinbefore directed and appointed, and that the following places in the respective Counties shall be and the same are hereby declared to be the places at which the Poll in the respective Counties at any future Election shall be opened, and at which votes shall be taken, that is to say:—

In the County of York :

For the Parish of Fredericton, at the Court House :

For the Parishes of Saint Mary's and Stanley, at or near Brown's, on the Nashwaak :

For the Parish of Douglas, at or near the Mouth of the Keswick :

For the Parish of Kingsclear, at or near the Lower Village :
For the Parish of Prince William, at or near Marshall's :
For the Parish of Queensbury, at or near Lewis Huestis' :
For the Parish of Dumfries, at or near Asa Dow's :
For the Parish of Southampton, at or near Lenentine's.

In the County of Saint John :

District number one, to comprise that part of the City of Saint John lying on the east side of the Harbour ; the Electors who reside in that part of the City of Saint John lying on the east side of the Harbour, shall assemble in the different Wards in which they reside, and poll their votes at such place in each Ward as the Sheriff or returning Officer for the time being shall appoint ; and notice of such place so by him appointed shall be given in manner and at the time provided by the first Section of this Act ; and in the other Districts for the said County mentioned, the term " Freeholder " shall extend and be applied to all persons entitled to vote within the said Districts :

District number two, to comprise that part of the City of Saint John lying on the west side of the Harbour, and the Freeholders thereof shall assemble at or near the Market House in Carleton :

For the Parish of Portland, at or near the National School House :

For the Parish of Lancaster, at Musquash :

For the Parish of Saint Martins, at Quaco :

For the Parish of Simonds, the Sheriff to divide the Parish into three Districts : Loch Lomond, number one ; Black River, number two ; Red Head, number three : the different boundaries to be defined by the Sheriff, and to give notice in the manner prescribed in the first and eleventh Sections of this Act.

In the County of Westmorland :

The Sheriff to name the place of polling in each Parish, to be as central as may be convenient, and notice to be given thereof at the same time and in the same manner that public notice is given of the Election, under the provisions of the first Section of this Act ; provided always, that in the Parish of Dorchester, the Court House, shall be the place of polling.

In the County of Charlotte :

For the Parish of Saint James, at or near the Kirk on the Scotch Ridge :

For the Parish of Saint Stephen, at Salt Water, near the head of Tide Waters :

For the Parish of Saint David, at the head of Oak Bay :

For the Parish of Saint Andrews, at the County Court House :

For the Parish of Saint Patrick, at Digdeguash Mills, and at the Rolling Dam :

For the Parish of Saint George, at the Lower Falls :

For the Parish of Pennfield, at the School House, near the Episcopal Church :

West Isles and Campo Bello, at Indian Island :

Grand Manan, at Grand Harbour.

In the County of Northumberland :

For the Parish of Newcastle, at the Court House in the Shire Town :

For the Parish of Nelson, at or near M'Gee's Tavern, in said Parish :

For the Parish of Alnwick, at Lower Neguac :

For the Parish of Glenelg, at Ullock's Farm, Mouth of Bay du Vin River :

For the Parish of Chatham, at or near the Town of Chatham :

For the Parish of Northesk, at or near Cuppage's residence :

For the Parish of Blackville, at or near Bartholomew's Mills :

For the Parish of Blissfield, at or near John Decantlin's in said Parish :

For the Parish of Ludlow, at or near John Wilson's, in said Parish.

In the County of King's :

For the Parish of Kingston, at the Court House :

For the Parish of Sussex, at or near Sheck's :

For the Parish of Studholm, at or near J. Ryan's :

For the Parish of Springfield, at or near White's :

For the Parish of Upham, at or near J. Wannamaker's :

For the Parish of Hampton, at or near W. Ketchum's :

For the Parish of Norton, at or near J. Hayes' :

For the Parish of Greenwich, at or near Oak Point :

For the Parish of Westfield, at or near Jacob Waters'.

In the County of Queen's :

For the Parish of Gagetown, at the Court House :

For the Parish of Petersville, at or near Government House,
(so called) :

For the Parish of Hampstead, at or near Roberts' :

For the Parish of Wickham, at or near Robert Golding's :

For the Parish of Johnston, at or near Thomas Thoru's :

For the Parish of Brunswick, at or near Charles Keith's :

For the Parish of Waterborough, at or near John Farris' :

For the Parish of Chipman, at or near Andrew M'Donald's :

For the Parish of Canning, at or near George W. Hoben's.

In the County of Sunbury :

For the District comprising the Parishes of Burton and
Lincoln, at the Court House :

For the Parish of Maugerville, at or near the old Perley place :

For the Parish of Sheffield, at or near Tilley's :

For the Parish of Blissville, at or near John Bailey's.

In the County of Gloucester :

District number one, from the Restigouche Line to the
Bathurst Line, comprehending the Parish of Beresford, at or
near the Church at Little Roche :

District number two, from the Beresford Parish Line to the
Big Nepisiquit River, at the Court House :

District number three, from Big Nepisiquit River to Teague's
Brook, at or near the Lot number twelve, at Salmon Beach :

District number four, from Teague's Brook, round Misso-
nette, up the South Branch of Caraquet River, at or near the
Church in Grand Aunce :

District number five, from the South Branch of Caraquet
River to the Blackhall Portage, at or near the Church in
Caraquet :

District number six, from the Blackhall Portage, eastward,
round by Saint Simon's Inlet, to the Wough Bridge, at or near
John Gionett's :

District number seven, all the remaining territory to the
eastward of Pokemouche River and Saint Simon's Inlet, at or
near the Church at Shippagan :

District number eight, Pokemouche Settlement, (so called,) at or near Valentine Gibb's:

District number nine, the rest of the County, at or near William Louiser's in Tracadu.

In the County of Kent :

For the Parish of Richibucto, at the Court House :

For the Parish of Weldford, at such place in the said Parish as the Sheriff shall appoint, and notice of such place so by him appointed shall be given in the manner and at the time provided by this Act :

For the Parish of Wellington, on the Great Road between the two Rivers :

For the Parish of Dundas, near the Bridge over Cocagne River :

For the Parish of Carleton, at Kouchibouguac Bridge :

And such places as the Sheriff may name, on the day of nomination of the Candidates, for Huskisson and Harcourt :

That the Freeholders comprised in the Lots fronting on the Aldoune River and Bay, in the Parish of Carleton, shall assemble with the Freeholders of Richibucto, and poll their votes at the Court House in the said Parish of Richibucto.

In the County of Carleton :

District number one, to comprise the Freeholders of the front tier of Lots in the Parish of Woodstock, and the whole Parish of Northampton, and who shall assemble at the Court House in the Shire Town :

District number two, to comprise the remaining part of the Parish of Woodstock, and the Freeholders shall assemble at the place commonly called Richmond Corner :

District number three, to comprise the Parish of Wakefield, and that part of the Parish of Brighton lying to the southward of the Becaguimic Stream, and the Freeholders thereof shall assemble at the place commonly called Victoria Corner :

District number four, to comprise the Parish of Simonds, and the remaining part of the Parish of Brighton lying to the northward of said Becaguimic, and the Freeholders thereof shall assemble at or near Big Presqu'ile River :

District number five, to comprise the Parishes of Wicklow and Kent, and the Freeholders thereof shall assemble at or near Kerr's, opposite the Monquat :

District number six, to comprise the Parishes of Andover and Perth, and the Freeholders thereof shall assemble at or near Curry's, opposite the Tobique :

For the Parish of Madawaska, viz :

District number seven, to comprise all that part of the Parish lying below the upper line of Lot number twenty five, granted to Joseph Daigle, Junior, and the Freeholders thereof shall assemble at or near Grand River :

District number eight, to comprise all that part of the said Parish not comprised in District number seven, below Joseph Micheau's lower line, and the Freeholders thereof shall assemble at or near the Mouth of the Little Madawaska River :

District number nine, to comprise all that part of the said Parish lying above Joseph Micheau's lower line, and the Freeholders thereof shall assemble at or near John Keaton's.

In the County of Restigouche :

For the District comprising the Parishes of Colborne and Dalhousie, at the Court House in Dalhousie :

For the Parish of Durham, at Robert Hannay's :

For the District comprising the Parishes of Addington and Eldon, at Campbellton.

In the County of Albert :

For the Parish of Hopewell, at the Court House :

For the Parish of Elgin, at or near John Barchard's :

For the Parish of Coverdale, at or near William Smith's :

For the Parish of Hillsborough, at or near John Beatty's :

For the Parish of Harvey, at or near William Chapman's, at the Village Corner.

6. At every such Election, the resident Electors of such County or City voting at such Election, shall poll their votes for such Election at the Poll which shall be opened for the District, Town, Parish, or Ward in which they reside, and at no other, under a penalty of five pounds currency, to be recovered before any Court of competent jurisdiction, with costs of suit, at the suit of the party or parties aggrieved ; provided always, that in cases where the boundary lines between different Parishes or between different Counties are doubtful, the Parish in which the Elector is reputed to reside, or has been

accustomed to pay Parish Rates, and perform Statute Labour on the Highways, shall be taken and deemed to be the Parish in which such Elector resides for all the purposes of this Act, any thing contained in this Act to the contrary notwithstanding.

7. In the event of the division of any Parish or Parishes in this Province, from and after the passing of this Act, without providing anew for the polling of the votes of the resident Electors of such Parish or Parishes, the resident Electors of such Parish or Parishes shall poll their votes at the same place in all respects as if no such division had taken place, unless otherwise provided by the Law dividing such Parish or Parishes.

8. It shall be the duty of the Sheriffs of the respective Counties, and they are hereby respectively authorized and required, immediately before the commencement of any Election, to appoint, by Warrant under Seal, a sufficient number of Deputies to preside at the several places appointed for taking the Poll in their respective Counties, and also a sufficient number of Clerks to take the Poll at the Shire Town, and at the several places appointed for taking the Poll in such County; and shall by Precept under his hand and seal, require each of such Deputies to take the Poll of such Election for the District, Town, Parish, or Ward, as the case may be, for which he has been so appointed, according to law, and to return the same to him, under his hand and seal, by the day to which such Sheriff or presiding Officer shall have adjourned the further proceeding in the said Elections; and the Poll Clerks employed at these several places shall at the close of the Poll enclose and seal their several Books, and shall publicly deliver them, so enclosed and sealed, to the presiding Officer at such Poll, who shall give a receipt for the same, and forthwith deliver or transmit the same, so enclosed and sealed, to the Sheriff of the County, who shall receive and keep all such Poll Books, unopened, until the reassembling of the Court at the County Court House, in each County, on the day to which such Court and the proceedings in the said Election shall have been adjourned; and then he shall openly break the seals thereon, and cast up the number of votes as they appear on the said several Books, and shall there openly declare the state of the Poll, and shall forthwith make proclamation of the Members chosen, not

later than three in the afternoon of the said day; and shall forthwith make return of such person or persons as have a majority of votes, unless a Scrutiny be demanded by any Candidate at such Election, or by five or more Freeholders of the County, in which case it shall and may be lawful for such Sheriff, and he is hereby required to grant the same, and to proceed thereupon within three days after the day of such proclamation, causing the same to be kept open during the continuance of such scrutiny, six hours at the least in each day, between the hours of eight A. M. and four P. M., unless prevented by unavoidable accident, but so as that in all cases of an Election of any new Assembly, or to fill any vacancy in the present or any future Assembly, every Sheriff having the return of a Writ shall close such scrutiny, and make his return upon such Writ, on or before the day on which such Writ is returnable.

9. Whenever a scrutiny shall be granted as aforesaid, and there shall be more parties than one objecting to votes on such scrutiny, the Sheriff shall decide alternately, or by turns, on the votes given for the different Candidates who shall be parties to such scrutiny, or against whom the same shall be carried on, beginning with the votes objected to by the party first demanding the scrutiny.

10. Upon every Election of any Member or Members to serve in this or any future Assembly, it shall and may be lawful for the Sheriff or Under Sheriff presiding at such scrutiny, if he see cause, and he is in such case authorized, during the continuance of any scrutiny which shall be granted as aforesaid, to administer an oath to any person whatsoever consenting to take the same, touching the right of any person having voted at such Election, or touching any other matter or thing material or necessary towards carrying on such scrutiny.

11. At the commencement of every Election of any Member or Members to serve in this or any future Assembly, the Sheriff of the County or City in which such Election shall be made, either in person or by his sufficient Under Sheriff, shall, in the first instance, open and hold his Court for such Election at the Court House in the Shire Town of the said County or in such City, between the hours of ten A. M. and twelve of the clock at noon, on the day appointed and notified

for that purpose, agreeably to the provisions of this Act, and shall continue the same open till the hour of two P. M. on that day, when and where the names of all the Candidates that shall then offer, or be handed in by one or more substantial Freeholders of such County or City, to such Sheriff or Under Sheriff presiding at such Election, shall, under the direction of such Sheriff or presiding Officer, be entered and recorded by the Poll Clerk to be appointed at such Election, in the Poll Book to be provided for that purpose; and in case no Poll shall be then and there demanded, it shall and may be lawful for the said Sheriff or presiding Officer at such Election, and he is hereby required, then and there to proceed to such Election by a show of hands, and to declare the Member or Members so chosen, and to finally close the said Election, and to make his Return accordingly; and in the event of a Poll being demanded, it shall be the duty of the Sheriff or presiding Officer, and he is hereby required to grant the same, and forthwith by public proclamation give notice of the time and places at which the Poll of such Election shall be taken in the several Districts, Towns, Parishes, or Wards of such County or City as hereinbefore provided, and shall thereupon adjourn the Court there holden, and the further proceedings in such Election, to some day within four days after the day fixed for taking such Poll in the several Districts, Towns, Parishes, or Wards as aforesaid.

12. It shall not be lawful for the Sheriff, Under Sheriff, or presiding Officer or Officers at the respective polling places in any of the Counties in this Province, or for any of the Poll Clerks at such places, to receive or record the name of any person as a Candidate at such Election, or to receive or poll any vote or votes at such Election, for any person whatever, unless the name of such Candidate shall have been previously entered and recorded in the Sheriff's Poll Book, at the Court House in the Shire Town or City, according to the hereinbefore mentioned provisions of this Act.

13. In all cases where from any one or more of the Precepts for taking the Polls in the several Districts, Towns, Parishes, or Wards in such City or County, not having been returned to the said Sheriff by the return day therein named, the said Sheriff shall not be prepared on the day to which he

had adjourned the Court and further proceedings in the said Election, to proceed to sum up, ascertain, and declare the state of the general Poll of such Election, such Sheriff, instead of proceeding to examine such of the returns as shall have been already made, shall further adjourn the Court and proceeding in such Election to the following day, and so on from day to day until the said Precepts shall have been all returned; provided always, that in proclaiming every such adjournment, he shall publicly declare the reason thereof; and provided also, he shall in no case continue such adjournment to so late a day, as shall interfere with his being able to return the Writ of Election by the return therein named; and provided also, that he shall in no case adjourn such Court and proceedings in such Election, to Sunday, Christmas Day, or Good Friday, but in all cases when such adjournment shall be necessary, adjourn over every such Sunday, Christmas Day, or Good Friday.

14. The names of all the Candidates, in the order of their nomination and entry on the Poll Book, shall be posted up in large letters in some conspicuous place on the Polling Booth or other place where such Election is holden, during the day of such Election, at the Shire Town and in the other Districts, Towns, Parishes, or Wards into which the County or City is divided, and also the Districts, Towns, Parishes, or Wards, or the limits thereof, in case of Districts or Wards for which such Poll is held, at each and every polling place in such City or County, into which, for the purposes of such Election, such City or County shall be divided; and it shall be the duty of the Sheriff, and the several Deputies he shall appoint, to hold the Polls in the several Districts, Towns, Parishes, or Wards of such County or City, to carry into effect the provisions of this Section.

15. In case any Sheriff or Deputy appointed to hold any Election, or take a Poll, after commencing the same, shall before the final termination of the same die or become incapacitated by accident or sickness, it shall and may be lawful for his Poll Clerk to act in his stead, who shall be authorized to appoint his Poll Clerk and finish the Election, and make the return in the same way and manner as though he, the said Poll Clerk, had been appointed originally the Sheriff or Deputy; provided always, that such Poll Clerk, before enter-

ing upon his duties as Sheriff or Deputy, shall appoint his Poll Clerk, and who with the said new or acting Sheriff or Deputy, previous to entering upon their duties respectively, shall take and subscribe the oaths prescribed by law for Sheriff, Deputy, or Poll Clerks.

16. No Poll shall be opened or held on Sunday, Christmas Day, or Good Friday.

17. The Members to be chosen to serve in such Assembly, shall be chosen in every County which hath right to choose, by male persons of the full age of twenty one years, not subject to any legal incapacity, every one of whom shall have a freehold in such County, of the value of twenty five pounds, in case such persons reside in such County; and in case such persons do not reside in such County, shall have a freehold in such County of the value of fifty pounds, and shall have respectively possessed the same, and have had their titles registered six months before the teste of the said Writ; and such Candidates qualified as by law is required, as have the greatest number of votes of Electors qualified as aforesaid, shall be returned by the Sheriffs, Members to serve in such Assembly, by indentures between the said Sheriff and the said Electors; provided always, that any person who may have mortgaged his lands, and remain in possession of the same, shall not be debarred from voting.

18. In cases where persons claim to vote upon a freehold derived by inheritance, devise, or as tenant by the courtesy, or any estate or interest contingent upon the life or lives of another, it shall not be necessary to the legality and sufficiency of such vote that the title of the person claiming to vote shall have been possessed or registered for six months, so that the title of the person through whom such person derives his title shall have been registered for six months.

19. Every Sheriff shall at the commencement of every Election, immediately after reading the Writ or Precept for the Election of such Member or Members, take and subscribe the following oath:—

‘ I, A. B. do swear that I have not directly or indirectly received any sum or sums of money, office, place or employment, gratuity or reward, or any bond, bill, or note, or any promise of gratuity whatsoever, either by myself, or any other

‘ person to my use, benefit, or advantage, for making any
‘ return at the present Election of Members to serve in As-
‘ sembly, and that I will return such person or persons as shall
‘ to the best of my judgment appear to me to have a majority
‘ of legal votes ;’

and each of the Under Sheriffs or other Officers that shall be appointed by the said Sheriff to preside or hold a Court for polling or receiving votes for the Election of any Member or Members to serve in the General Assembly of this Province, and also each and every of the Clerks appointed to take the Poll at the Shire Town, and also at the several places appointed for taking the Poll, shall at the opening of the Poll at the commencement of such Election, and before such Under Sheriff or other Officer or Clerk shall receive any votes, take and subscribe the following oath :—

‘ I, A. B. do solemnly swear that I have not directly or in-
‘ directly received any sum or sums of money, office, place or
‘ employment, gratuity or reward, or any bond, bill, or note, or
‘ any promise or gratuity whatsoever, either by myself, or any
‘ other person to my use, benefit, or advantage, for making
‘ any return at the present Election of a Member or Members
‘ to serve in the General Assembly, and that I will well and
‘ faithfully discharge my duty at the present Election to the best
‘ of my knowledge and judgment, * and I will return to the She-
‘ riff a true and faithful account of the votes polled at the pre-
‘ sent Court at which I am appointed and authorized to preside :’
and the Poll Clerk, instead of the words after the asterisk, shall swear, ‘ and I will faithfully enter and record the votes
‘ received at the polling place I have been appointed to act as
‘ Poll Clerk :’

which oaths respectively, any Justice of the Peace for the County where such Election shall be made, or in his absence any two of the Electors, are hereby authorized and required to administer, at or immediately before eight o’clock of the morning of the day appointed to hold the Poll for taking the votes at the Shire Town, and the several polling places ; and such oath so taken and subscribed shall be prefixed at the time to the Poll Book, and form part thereof.

20. Every Sheriff, Under Sheriff, Deputy, or Officer appointed to preside at such Election, or at any of the polling

places within the City or County for which such Election is held, is hereby required to read the Writ or Precept for such Election, or at any of the places appointed for polling out of the Shire Town, a true copy thereof, certified under the hand of the Sheriff or Officer presiding at such Election at the Shire Town, who is hereby required, prior to the opening of the Poll at such polling places, to furnish each of the Deputies appointed to preside at the respective polling places with such copy, together with a list of the Candidates whose names shall have been entered in the general Poll Book by such Sheriff at the Shire Town, agreeably to the provisions of this Act, for the purpose of being so publicly read; and the said Sheriff or Officer so presiding at such Shire Town, is hereby required immediately after the reading of such Writ or Precept, or a copy thereof as aforesaid, and taking and subscribing the oaths respectively as aforesaid, to read or cause to be read openly before the Electors then assembled, this Act; and the said Deputies or persons so presiding at such polling places, are hereby required and directed respectively to enter and record in their respective Poll Books the names of such Candidates as shall be so furnished as aforesaid to such Deputies or presiding Officers respectively, as directed by this Section of this Act, and to state the names of such Candidates to any Elector requiring the same, or who is coming forward to vote.

21. For the more due and orderly proceeding in the said Poll, the said Sheriff or his Under Sheriff, or person presiding at the Poll at the Shire Town, shall appoint for each Candidate such one person as shall be nominated to him, by or on behalf of such Candidate, to be Inspector of any Clerk who shall be appointed for taking the Poll; and every Elector, at the time of polling, shall distinctly name the Candidate or Candidates for whom he votes; and before he be admitted to poll at the same Election, shall if required by the Candidates, or any one of them, or in his absence, by the substitute for or on behalf of such Candidate, first take the oaths hereinafter mentioned, or any or either of them, viz:—

‘ I do swear that I am a British subject, and qualified by law to vote at this Election, and that I have not before polled at this Election; and the place of my abode is at —
‘ So help me God !’

and also the following oath :—

‘ I swear that I have not received or had by myself or any other person whatsoever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place or employment, gift or reward, or any promise or security for any money, office, or employment, or gift, in order to give my vote at this Election.—So help me God !’ or being one of the people called Quakers, shall if required as aforesaid, solemnly affirm to the effect of each and every of the said oaths which shall be required as aforesaid ; which said oaths or affirmations the Sheriff, his Deputy, Under Sheriff, or such sworn Clerk by him appointed for taking the said Poll or Polls as aforesaid, are hereby respectively authorized to administer ; and if any Elector being thereunto required as aforesaid, shall refuse or neglect to take the said oaths hereinbefore appointed to be taken, or either of them, or to affirm the effect thereof as aforesaid, that then the poll or vote of such person so neglecting and refusing shall not be taken, and the same is hereby declared to be null and void, and as such shall be rejected and disallowed ; and if any Sheriff, Deputy, Under Sheriff, or Poll Clerk shall neglect or refuse, when thereunto requested as aforesaid, to administer the said oaths and affirmations, or shall otherwise offend in the premises contrary to the true intent and meaning of this Act, every such Sheriff, Deputy, Under Sheriff, or Poll Clerk, shall for every such offence forfeit the sum of fifty pounds, together with full costs of suit, to be recovered by action of debt, bill, plaint, or information, in any of Her Majesty’s Courts of Record in this Province, at the suit of any Candidate at such Election, or of any Elector of the City and County for which such Election was holden ; provided always, that nothing herein contained shall alter or affect the oath now required by this Act to be taken by Freemen of the City of Saint John voting at Elections for that City, but that Freeholders voting on their freeholds, at such City Elections, shall be required to take the above oaths ; and that such Freeman shall, if required so to do, take in addition to any oath or oaths required by this Act, the oath secondly herein prescribed.

22. If any person or persons shall wilfully, falsely, and corruptly take any of the oaths or affirmations appointed

and required by any of the provisions of this Act, and be thereof lawfully convicted by indictment or information, or if any person or persons shall corruptly procure or suborn any other person or persons to take the said oaths or affirmations, or either of them, and the person so procuring or suborning shall be thereof convicted by indictment or information, every person so offending shall for every such offence incur and suffer such penalties, forfeitures, and disabilities as persons convicted of wilful and corrupt perjury are liable to.

23. No Elector at any Election shall be required to take the oaths commonly called the oaths of allegiance, abjuration, and supremacy, nor any oath or oaths required to be taken by any Act of the General Assembly in lieu thereof, any Law or Statute to the contrary notwithstanding.

24. If any person or persons who hath or claimeth to have, or hereafter shall have or claim to have any right to vote at such Election, shall take any money or other reward by way of gift, loan, or other devise, or contract or agree for any money, gift, office, employment, or other reward, to give or to forbear to give his vote at any such Election, or if any person by himself, or any person employed by him, doth or shall by any gift or reward, or by any promise or agreement, or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes, or to forbear to give his or their vote or votes, or shall by any threats, force, or violence, intimidate or compel any person or persons to give his or their vote or votes, or to forbear to give his or their vote or votes at any such Election, such person so offending in any of the cases aforesaid, shall for every such offence forfeit the sum of twenty pounds, to be recovered as before directed in the twenty first Section of this Act, with full costs of suit; and every person offending in the cases aforesaid, in this clause mentioned, from and after judgment obtained against him in any such action of debt, bill, plaint, or information, or being in any other wise lawfully convicted, shall for ever be disabled to vote for any Member or Members of the Assembly of this Province.

25. If any person shall cause himself or themselves to be polled more than once at the same Election in the same County, or if any person who is not duly qualified to vote and be polled according to the provisions of this Act, shall wilfully vote and

cause himself to be polled at any Election for any Candidate, such person so offending in either case aforementioned, shall for every such offence forfeit the sum of fifteen pounds, to be recovered as before directed in the twenty first Section of this Act, with full costs of suit, or such fines and penalties shall and may be recovered before any Justice of the Peace for the County or City in which the offence was committed, at the suit of any Candidate at such Election, or any Elector of the County or City for which such Election was holden.

26. If the qualification of any Candidate at any Election to be hereafter holden be openly questioned at any time after the commencement of the Election at the Shire Town, and during the time prescribed by the eleventh Section of this Act for the nomination of Candidates, it shall be the duty of the Sheriff or returning Officer forthwith to give the Candidate, his agent, or person nominating him, whose qualification is so questioned, notice of such questioning, and in default of the declaration provided by the forty fourth Section of this Act being filed with the Sheriff or returning Officer by eight o'clock in the evening of the day of such nomination, the said Sheriff or returning Officer shall strike the name of the Candidate whose qualification is so questioned from the Poll Book.

27. The Sheriffs of the respective Counties are hereby authorized and required immediately prior to any Election, to erect or cause to be erected temporary Booths at such of the respective polling places within their respective Counties, or of the Shire Town, or to procure any house or houses, or other building or buildings, at the respective places appointed for taking the Poll, as such Sheriffs respectively may and shall from time to time deem necessary and proper.

28. Every Sheriff who hath the execution and return of any such Writ for electing Members to serve in General Assembly, which shall be issued for the future, shall on or before the day that any future Assembly shall be called to meet, and with all convenient expedition after any Election made by virtue of any new Writ, either in person or by his Deputy, make return of the same to the Clerk of the Crown in Chancery, to be by him filed in the Crown Office; and every Sheriff having execution and return of any such Writ as aforesaid, who shall not make the returns according to the true intent and meaning of

this Act, shall forfeit for every such offence one hundred pounds, one moiety of which shall go to Her Majesty, and the other moiety to him or them that shall sue for the same, to be recovered by action of debt, bill, plaint, or information, in any of Her Majesty's Courts of Record in this Province.

29. In taking any Poll which shall be required as aforesaid, the Sheriff and Clerks, Under Sheriffs, Deputies, or presiding Officers respectively, or any of them, shall enter in the Poll Book not only the place of the Elector's freehold, but also the place of his abode, as he shall declare the same at the time of giving his vote, and shall also make or enter "Jurat" against the name of every such voter who shall take the oath or oaths herein required to be taken by Electors; and that the said Sheriff or returning Officer shall within the space of twenty days next after such Election, faithfully deliver over upon oath, (which oath any one of the Justices of the Peace of the County in which such Election is held, is hereby authorized and required to administer) unto the Clerk of the Peace of the same County, all the Polls Books of such respective Elections, without any embezzlement or alteration, to be carefully kept and preserved among the Records of the Sessions of the Peace of and for the said County.

30. All false returns which shall be wilfully made of any Member to serve in the Assembly of this Province, are against law, and hereby prohibited; and in case any person or persons shall return any Member to serve in the Assembly of this Province for any County, City, or place, contrary to the rights of Elections established in and by the provisions of this Act, or of any of the Acts now in force in this Province relating to Elections, such return so made shall and is hereby adjudged to be a false return, and the party aggrieved, to wit, every person that shall be elected to serve in such Assembly for any County, City, or place, by such false return, may sue the Sheriff or returning Officer, and persons wilfully making and procuring such false return, and every or any of them, at his election, in the Supreme Court of this Province, and shall recover the damages he shall sustain by reason thereof, together with his full costs of suit; and if any Sheriff or returning Officer shall wilfully, falsely, and maliciously return more persons than are required to be chosen by the Writ or Precept on which any

choice is made, the like remedy may be had against him or them, and the party or parties that shall willingly and knowingly procure the same, and every or any of them, by the party aggrieved, at his election.

31. The Sheriff, Deputy, Under Sheriff, or person presiding at the respective polling places at every such Election, after such Sheriffs, Deputies, Under Sheriffs, or persons presiding as aforesaid, shall have taken and subscribed the oath required by this Act to be taken by such Sheriffs, Deputies, Under Sheriffs, or persons presiding, shall be during the day and days on which the Election may be held, and they are hereby declared to be Conservators of the Peace, and severally vested with the same powers for the preservation of the peace, and apprehension, and committal for trial, or holding to bail, or trying and convicting violators of the law and good order, as are vested in the Justices of the Peace of the Province; and for the purpose of keeping the peace, and preserving good order at any Election, it shall and may be lawful for any such Sheriff, Deputy, Under Sheriff, or person presiding as aforesaid, to require the assistance of all Justices of the Peace, Constables, and other persons present at such Elections, to aid and assist him in doing so; and it shall and may be lawful for any such Sheriff, Deputy, Under Sheriff, or person presiding as aforesaid, to commit any person for a breach of the peace, molesting, or threatening any Elector at coming to or returning from the said Election, or for any other violation of good order, to the custody and charge of any Constable or Constables, person or persons, on view, for such time as he in his discretion shall or may deem expedient, or by a writing under his hand, to commit to prison for the like offence, for any period not extending beyond the close of the Poll and the day of holding the same; and when thereunto required, all Justices of the Peace, Constables, and others at the said Election, are enjoined to aid and assist such person presiding, and Justice and Justices of the Peace, in discharging such duties, under pain of being deemed guilty of a misdemeanor, and liable to punishment therefor; and all Justices of the Peace residing in the City, Town, or Parish wherein the Election is held, shall, upon being notified in writing by such person presiding, attend at such Election for the purpose of aiding in preserving peace

and order thereat; and such Justice or Justices, or person presiding, shall and may, when they consider it necessary, appoint and swear in any number of special constables, to act as Peace Officers, and assist in maintaining peace and order at such Election; provided always, that upon the written application of any Candidate, or the agent of any Candidate, or of any two or more Electors, any Sheriff or Deputy shall, and he is hereby required to swear in such special constables.

32. From and after the passing of this Act, it shall and may be lawful for any Member of the Assembly of this Province, legally elected, or who shall hereafter be so, who shall wish to abstain from the performance of the duties imposed on him by his election, to vacate his seat in the manner hereinafter provided.

33. Such Member, in his place in the Assembly, may give notice in writing of his intention of resigning his seat, and immediately after such notice shall have been entered by the Clerk of the Assembly in the Journal, it shall be lawful for the Speaker, and he is hereby required to issue his Warrant to the Clerk of the Crown in Chancery, to cause a Writ to be issued for the Election of a Member in the room of the Member who shall have so resigned; and the said Clerk of the Crown shall, upon the receipt of such Warrant, issue out a Writ for that purpose, with as much expedition as the same may be done; provided always, that the Member so tendering his resignation shall be and be held and considered as being, to all intents and purposes, the Representative for the place for which he was elected, until the return of the Election of such new Member to serve in his room shall have been duly made.

34. If any Member shall wish so to resign in the interval between two Sessions of the General Assembly, it shall be lawful for him so to do, by addressing and causing to be delivered to the Speaker a declaration to that effect, made under his hand and seal, before two witnesses, an entry of which declaration shall be made in the Journal of the proceeding on the first day of the Session of the General Assembly then next ensuing; and it shall be lawful for the Speaker, upon receiving such declaration, forthwith to issue his Warrant in like manner for the Election of a Member in the room of the Member so tendering his resignation.

35. No Member shall ask for leave to vacate his seat in the first Session of any Assembly before the expiration of the first fifteen days of said Session; and no Member, whose election shall be contested, shall so vacate his seat until after such contest shall have been decided.

36. In the event of any vacancy by death, resignation, or appointment to the Legislative Council, in the present or any future Assembly, during any recess of the General Assembly, it shall be the duty of the Speaker, within ten days after the same shall be certified to him in writing by at least two Members, one of whom to be a Member of the County or City in which the vacancy may happen, or in case such vacancy shall occur in a County only represented by one Member, then in any adjoining County, to send his Warrant to the Clerk of the Crown in Chancery, to cause a Writ to be issued for the Election of a Member to fill such vacancy; and the said Clerk of the Crown shall, upon the receipt of such Warrant, issue out a Writ for that purpose with as much expedition as the same may be done; and in case such vacancy shall be occasioned by the death or resignation of the Speaker, or by his appointment to a seat in the Legislative Council, or during the time there is no Speaker to the Assembly, during any recess as aforesaid, any four Members, one of whom to be a Member of the County or City for which such Speaker shall have been elected, may send their Warrant to the said Clerk of the Crown, to cause a Writ to be issued for the Election of a Member to fill the vacancy so made; and the said Clerk of the Crown shall, upon the receipt of such Warrant, issue out a Writ for that purpose with as much expedition as the same may be done; provided always, that if the Speaker shall be a Member for a County represented by only one Member, then the Warrant to the Clerk of the Crown may be made by any four Members.

37. The respective Sheriffs for the different Counties shall return the following Members to serve in Assembly, to wit: For the County of York, four; the County of Saint John, four; the County of Westmorland, four; the County of Charlotte, four; the County of Northumberland, four; King's County, three; Queen's County, two; the County of Sunbury, two; the County of Gloucester, two; the County of Kent, two; the

County of Carleton, two ; the County of Restigouche, two ; the County of Albert, two ; and for the City of Saint John, two.

38. The Writ for the Election of the said two Members for the said City shall be directed to the Sheriff of the City and County of Saint John, who shall execute the same, and make return thereof in the same manner and under the like regulations, restrictions, penalties, and forfeitures, except as is otherwise in this Act prescribed, as Sheriffs holding Elections in Counties are make subject and liable to.

39. The Members for the City of Saint John shall be chosen by the Freeholders of the said City, qualified in the manner prescribed by this Act, and the Freemen, being inhabitants, who have actually dwelt therein, and been duly registered in the list of Freemen six months before the Teste of the Writ of Election, and possessed of personal estate to the value of twenty five pounds at the time of such Election, which said Freemen so to give their votes, shall be subject to the like regulations, restrictions, forfeitures, penalties, and disabilities, as Freeholders by this Act are made subject to, except that instead of the oath required to be taken by Freeholders, such Freemen shall take (or being Quakers, affirm the effect of) the following oath :—

‘ I do swear that I am a British Subject, a Freeman of the City of Saint John, and am duly qualified to vote at this Election, and have not before polled at this Election.—So help me God !’

40. Every person coming to vote at any Election hereafter holden for the City of Saint John, shall distinctly declare whether he claims to vote as a Freeman or Freeholder ; and it shall be particularly specified on the Poll Book whether his vote was given as a Freeman or Freeholder ; and every Freeholder shall, if required by any Candidate, specify the Ward in which his Freehold is situate, which shall also be noted on the Poll Book.

41. Every Sheriff shall forthwith deliver to such person or persons as shall desire the same, a copy of the Poll taken at such Election, paying only a reasonable charge for writing the same ; and every Sheriff for every wilful offence contrary to this Act, not provided for by particular penalties in and by this Act inflicted, shall forfeit to every party so aggrieved the sum

of fifty pounds, to be recovered in manner in the twenty-first Section of this Act prescribed.

42. No person or persons hereafter to be elected to serve in Assembly for any County, City, or place within this Province, after the Teste, or issuing out, or ordering of any Writ of Summons for a new Assembly hereafter to be called, or after any such place becomes vacant hereafter, in the time of this present or any other Assembly in this Province, shall hereafter by himself or themselves, or by any other ways or means on his or their behalf, at his or their charges, before his or their election to serve in Assembly for any such County, City, or place, directly or indirectly give, present, or allow to any person or persons having voice or vote in such Election, any money, meat, drink, entertainment, or provision, or make any present, gift, reward, or entertainment, or shall at any time hereafter make any promise, agreement, obligation, or engagement to give or allow any money, meat, drink, provision, present, reward, or entertainment, to or for any such person or persons in particular, or to any such County, City, or place in general, or to or for the use, advantage, benefit, employment, profit, or preferment of any such person or persons, place or places, in order to be elected, or for being elected to serve in Assembly for such County, City, or place.

43. Every person or persons so giving, presenting, or allowing, making, promising, or engaging, doing, acting, or proceeding, shall be and are hereby declared and enacted disabled and incapacitated upon such Election to serve in the House of Assembly for such County, City, or place, and that such person or persons shall not act, sit, or have any vote or place in the House of Assembly, but shall be and are hereby declared and enacted to be to all intents, constructions, and purposes, as if they had never been returned or elected Members for the Assembly.

44. No person shall be capable of being elected a Member of the Assembly of this Province who shall not be the age of twenty one years, and who shall not be legally seized as of freehold for his own use and benefit, of lands or tenements within this Province of the value of three hundred pounds currency, over and above all rents, mortgages, judgments, executions, or extents charged upon or due and payable out

of or affecting the same, and shall have been seized of such lands or tenements six months previous to the Teste of the Writ of such Election; and that every Candidate at any Election of Representatives in the General Assembly, before he shall be capable of being elected, shall, if required by any other Candidate, or any Elector, or by the Sheriff or Officer holding such Election, make before the said Sheriff or other Officer the following declaration:—

‘I, A. B. do declare and testify that I am of the age of twenty one years, and that I am duly seized as of freehold for my own use and benefit, of lands and tenements in the Province of New Brunswick; and that such lands are known, distinguished, and situated in the [*here particularly describe the Parish and County, or different Parishes and Counties where the lands comprising the Candidate’s qualification are situate, with the number or other specific description, by boundaries of the lot or lots*] of the value of three hundred pounds currency, over and above all rents, mortgages, judgments, executions, and extents charged upon or due and payable out of or affecting the same, and that I have been seized of such lands or tenements for the period of six months previous to the Teste of the Writ for this Election.’

45. It shall and may be lawful for any Candidate at any Election hereafter holden, to make and subscribe the declaration mentioned in the forty fourth Section of this Act, in the presence of one of Her Majesty’s Justices of the Peace, or of a credible witness, and transmit the said declaration to the Sheriff of the County or City for the representation whereof such person so making the declaration is a Candidate, or such declaration may be made on behalf of and for such Candidate, by any reputable Freeholder, in the presence of the Sheriff or Officer presiding at such Election, and in either case shall have the like force and effect, and subject the person making it to all the pains and penalties as if made in the manner prescribed by the said forty fourth Section of this Act.

46. If any person shall knowingly and willingly make a false declaration respecting his qualification as a Candidate at any Election as aforesaid, such person shall be deemed to be guilty of a misdemeanor, and being thereof lawfully convicted, shall suffer the like pains and penalties as by Law are incurred

by persons guilty of wilful and corrupt perjury, in the County in which such false declaration shall have been made.

47. On the trial of any information, indictment, or other action brought against any person or persons, for the recovery of any of the penalties imposed upon any person or persons who may wilfully vote without being duly qualified, or against any Candidate or other Freeholder who may make the declaration prescribed for any Candidate, or upon the trial of the qualification of any Candidate before a Select Committee of the House of Assembly, the Certificate of the Register of Deeds and Wills for the County, or City and County in which the land upon which such Elector or Candidate's qualification is stated to be situate, that such Elector or Candidate has no such land on record; and a Certificate of the Secretary and Registrar of the Province, that such Elector or Candidate has no Grant of any such land upon which he qualified, shall be *prima facie* evidence that such Elector or Candidate is not qualified.

48. The present General Assembly of this Province, and every General Assembly of this Province hereafter to be summoned and chosen, shall, notwithstanding any demise of the Crown, continue for four years from the day of the return of the Writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Lieutenant Governor or person administering the Government of the Province.

49. All Writs and Warrants to be issued for the election of any Members to serve in all Assemblies in this Province, and all mandates, precepts, instruments, proceedings, and notices consequent upon such Writs, shall be and the same are hereby authorized to be formed and expressed in such manner and form as may be necessary for carrying the provisions of this Act into effect.

50. No action shall be brought or prosecuted for the recovery of the fines and penalties imposed in and by any of the provisions of this Act, unless commenced within six calendar months after the forfeiture or offence for which such fine or penalty is imposed shall have occurred.

51. If any Sheriff, returning Officer, Deputy, Under Sheriff, Poll Clerk, or other person whatsoever, appointed and acting

under the authority of this Act, for any Election for any County or City in this Province, shall wilfully contravene or disobey the provisions of this Act, or any of them, with respect to any matter or thing which such Sheriff, returning Officer, Deputy, Poll Clerk, or other person whatsoever is by this Act required to do, and for which default or offence no specific penalty is provided, he shall for such his offence be liable to be sued in an action of debt in the Supreme Court of this Province, for the penal sum of fifty pounds; and the Jury before whom such action shall be tried, may find their verdict for the full sum of fifty pounds, or for any less sum which the said Jury shall think it just that he should pay for such his offence; and the defendant in such action being convicted, shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same; provided always, that no such action shall be brought except by a person being an Elector, or claiming to be an Elector, or a Candidate, or a Member actually returned, or other party aggrieved, within four months after the commission of the offence for which such action is brought.

52. In the construction of this Act, except there be something in the subject or context inconsistent with or repugnant to such construction, every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing; and every word importing the plural number, shall extend and be applied to one person or thing, as well as several persons or things; and the words 'Returning Officer' shall apply to every person or persons to whom by virtue of his or their office, under any Law or Statute, the execution of any Writ or Precept doth or shall belong for the election of a Member or Members to serve in the General Assembly of this Province, by whatever name or names such person or persons may be called; and no misnomer or inaccurate description of any person, place, or thing named or described in any notice required by this Act, shall in any wise prevent or abridge the operation of this Act with respect to such person, place, or thing, provided that such person, place, or thing shall be so denominated in such notice as to be commonly understood.

53. An Act made and passed in the sixth year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to*

*improve the Law relating to the Election of Representatives to serve in the General Assembly; and also an Act made and passed in the eighth year of the Reign of Her present Majesty Queen Victoria, intituled *An Act relating to the Election of Representatives to serve in the General Assembly*; and also an Act made and passed in the ninth year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to establish the Polling Places in the County of Albert*, be and the same are hereby repealed.*

54. The repeal of the said several recited Acts hereby repealed shall not operate to revive any Act thereby repealed; and every act, matter, or thing heretofore done under and by virtue of the hereinbefore mentioned several recited Acts, shall be and continue valid and effectual, and of the like force and effect, as if this Act had not been made and passed.

55. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 11th day of August 1848, and published and declared in the Province the 20th day of September 1848.]

12th VICTORIA—CHAPTER 70.

An Act to vacate the Seats of Members of the Assembly in certain cases.

Section.

1. Accepting Office, what shall vacate seat.

Section.

2. Royal assent required.

Passed 14th April 1849.

Be it enacted, &c.—1. From and after the passing of this Act, any Member of the House of Assembly who shall accept of any office of profit or emolument under the Crown, shall be incapable of taking or holding his seat in the General Assembly of this Province while in such office, unless re-elected after his acceptance thereof.

2. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 29th day of June 1849, and published and declared in the Province the 1st day of August 1849.]

16th VICTORIA—CHAPTER 34.

An Act in amendment of the Act relating to the Election of Representatives to serve in the General Assembly, so far as relates to the Polling places in the County of Carleton.

Section.

1. What Section repealed.

Section.

2. By whom Polling places in Carleton appointed.

Passed 3rd May 1853.

*Be it enacted, &c., as follows:—*1. That part of the fifth Section of the Act made and passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act relating to the Election of Representatives to serve in the General Assembly*, which fixes the different Districts for Polling places in the County of Carleton, be and the same is hereby repealed.

2. The Sheriff of the said County of Carleton shall hereafter name the place of polling in each Parish in said County, as near the centre, being the most convenient places for that purpose; and the notice thereof shall contain all the provisions specified in the first Section of the said in part recited Act.

16th VICTORIA—CHAPTER 35.

An Act to establish places for Polling in the Parishes of Glenelg and Hardwicke, in the County of Northumberland.

Section.

1. Repealed Section.

Section.

2. Polling places for certain Parishes in Northumberland.

Passed 3rd May 1853.

*Be it enacted, &c., as follows:—*1. The fifth Section of an Act made and passed in the eleventh year of Her present Majesty's Reign, intituled *An Act relating to the Election of Representatives to serve in General Assembly*, and also the first Section of an Act made and passed in the thirteenth year of the same Reign, intituled *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns, and Parishes in this Province*, so far as the same relate to the establishment of a Polling place in the Parish of Glenelg, in the County of Northumberland, for the purposes of the several Acts aforesaid be and the same are hereby repealed.

2. The Polling places in the Parishes of Glenelg and Hardwicke, in the County of Northumberland respectively, for the Election of Representatives to serve in General Assembly for the County of Northumberland, and for the election of all Officers to be elected under and by virtue of the several Acts, intituled *An Act relating to the Election of Representatives to serve in General Assembly*, and *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns and Parishes in this Province*,—

In the Parish of Glenelg, shall be held at or near the residence of John M'Kay, at the Richibucto Road ; and

In the Parish of Hardwicke, at or near the residence of Robert Noble, in the County of Northumberland.

7th VICTORIA—CHAPTER 51.

An Act for the division of the County of Carleton into two Counties, and to provide for the government and representation of the new County.

Section.

1. County of Victoria, how erected.
2. Courts of Justice, how established.
3. Courts of General Sessions, &c., when holden.
4. Shire Town and Public Buildings.

Section.

5. Registry of Deeds, &c., how established.
6. Parish Officers.
7. Representation in General Assembly.
8. New County when to be deemed established, &c ; and Suspending clause.

Passed 13th April 1844.

WHEREAS from the great extent of the present County of Carleton it is necessary and expedient that the same be divided into two Counties;—

Be it therefore enacted, &c.—1. All that part of the said County bounded as follows, namely:—Commencing on the Boundary Line dividing the Province of New Brunswick from the United States of America, at the part or place where the same is intersected by the River de Chute, thence down stream, following the several courses of the said River, until it comes to the River Saint John, thence by the most direct course until it strikes the western termination of the line dividing the Lots numbers forty and forty one, granted to John Marro and Patrick Marro, thence by the said line easterly and a prolongation of the same until it comes to the westerly line of the County of York, be and the same is hereby erected into a County separate and distinct from the said County of Carleton, and shall

be called and known by the name of the County of Victoria; and the residue thereof which lies below the boundary line of the said County, as is described in this Act, shall comprise the County of Carleton.

2. The like Courts of Justice shall be erected and established, and the like Justices and other Officers be constituted and appointed in the said new County, as are now erected and established, constituted and appointed in the said County of Carleton, and with the like powers and authorities.

3. The Courts of General Sessions of the Peace and Inferior Court of Common Pleas shall be held in the Shire Town of the said new County twice in every year, at the times following, that is to say, on the last Tuesday in December and May, and continue until the business shall be finished, not exceeding five days; and two additional Terms of the said Inferior Court of Common Pleas for the said County shall be holden as follows, that is to say, on the first Tuesdays in March and October, and continue until the business be finished, not exceeding five days, at which additional Terms no Jury shall be summoned.

4. The Town or Parish of Andover in the said County of Victoria, shall be for ever hereafter the Shire Town of the said County, and a Court House and a Gaol shall be erected in the said Shire Town in like manner and by such and the like ways and means as such Public Buildings have been or may be erected in other Counties in this Province, and in such place within the said Shire Town as the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of Her Majesty's Executive Council, shall direct and appoint, and that all the Public Offices in the said County of Victoria shall be kept at the place so to be directed and appointed by the Lieutenant Governor or Administrator of the Government of the Province for the time being, by and with the advice and consent of Her Majesty's Executive Council.

5. In the said Shire Town there shall be erected and established a Registry of Deeds, Conveyances, Wills, Mortgages, Memorials of Judgments or Recognizances, for the said County, to be managed and executed by a Register, to be constituted in like manner and under and subject in all respects to the like laws, rules, and regulations as any other Registry in any other County of the Province; and that all Deeds, Conveyances,

Wills, Mortgages, Memorials, Judgments or Recognizances which may affect any lands, tenements, or hereditaments in the said County, shall be entered and registered at full length in the said Registry, provided the same Deeds and other documents have not been before registered in the said County of Carleton or County of York.

6. The several Parishes of the said County of Carleton in whole or in part comprised within the said new County, shall continue by their respective names to be the Parishes of the said new County until altered by the General Assembly, and that the Town or Parish Officers to be hereafter annually appointed for the said new County shall in all respects possess the same powers as the like officers in any other County; provided always, that the powers and authorities of the present or any other officers appointed or to be appointed by the Court of General Sessions of the Peace of the said County of Carleton, shall continue until after the first General Sessions of the Peace shall be holden in the said new County.

7. The said new County shall be entitled to send two Members to serve in the General Assembly of this Province, to be elected by the freeholders in like manner, and subject to the like laws, rules, and regulations under which other Members are elected in any other County; and all freeholders whose title deeds may have been registered in the County of Carleton or County of York before this Act shall go into operation, shall be entitled to vote without having their Deeds registered anew in the said new County; provided always, that no Writ shall be issued for the Election of such Members until there shall be a General Election for the Province.

8. The new County shall not be deemed to be erected and established until the Commission shall be issued for erecting the said Courts of Justice, appointing the several Justices and other Officers for the said new County, and the same shall be notified by Proclamation of the Lieutenant Governor or Administrator of the Government for the time being; provided always, that this Act shall not be in force until Her Majesty's Royal approbation be thereunto had and declared.

[*This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 30th day of January 1850, and published and declared in the Province the 6th day of March 1850.*]

16th VICTORIA—CHAPTER 69.

An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade.

Section.

1. Vessels hovering within three miles of the coast may be boarded.
2. Proceedings when Master refuses to depart.
3. Foreign vessels fishing or preparing to fish, and their cargoes, forfeited.
4. Vessels and goods may be seized. Penalty for obstructing officers.
5. Custody of vessels and goods seized.
6. Proceeds of condemned vessels and goods, how applied and distributed.
7. Penalties and forfeitures, how prosecuted.
8. Vessels and goods delivered on security.
9. Suits, how brought and prosecuted. Oral evidence as to Seizing Officer.
10. Burden of proof to rest with claimant.
11. Claim for property seized to be under oath.
12. Security to be given before claim entered.
13. Month's notice to officer before action.
14. Limitation of action against Seizing Officer.
15. If Judge certifies probable cause for seizure, no costs allowed.
16. Amends may be tendered within one month.

Section.

17. Limitation of actions for penalties.
18. Appeals, within what time to be prosecuted.
19. Coasting vessels to have narrow plank or iron extending aft of stern post.
20. Forfeiture for destroying nets, if not so provided.
21. Vessel or boat under fifteen tons to have distinguishing number on bows and mainsail.
22. Colour of numbers in Bay of Fundy and Gulf of Saint Lawrence respectively.
23. Vessel or boat without distinguishing number, to be seized and forfeited.
24. Penalty for false or fraudulent description of vessel or boat.
25. Penalty for false or fraudulent proceedings with reference to vessels above fifteen tons burthen, or Foreign vessels.
26. Lieutenant Governor may grant Commission of the Peace to officer in command of Her Majesty's Vessel of War, while protecting the Fisheries.
27. Definition of terms.
28. Suspending clause.

Passed 3rd May 1853.

*Be it enacted, &c., as follows:—*1. Officers of the Provincial Treasury, and any other person duly appointed by the Lieutenant Governor in Council for that purpose, may go on board any vessel or boat within any Harbour in this Province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as she may remain within such place or distance.

2. If such vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty four hours after the master shall have been required to depart, any one of the officers or persons above mentioned may bring such vessel or boat into port, and search her cargo, and also examine the master upon oath; and if the master or person in command shall not truly answer the questions demanded of him in such examination, he shall forfeit one hundred pounds; and if there be any prohibited goods on board, then such vessel or boat and the cargo thereof shall be forfeited.

3. If the vessel or boat shall be Foreign, and not navigated according to the Laws of Great Britain and Ireland, and shall be found fishing, or to have been fishing, or preparing to fish, within three marine miles of such coasts or harbours, such vessel or boat, and the cargo, shall be forfeited.

4. All goods, vessels, and boats liable to forfeiture, may be seized and secured by any of such officers or persons so appointed; and every person opposing them, or any one aiding such opposition, shall forfeit two hundred pounds.

5. Goods, vessels, and boats seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of the Officers of the Provincial Revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized, are directed to be secured and kept by law.

6. All goods, vessels, and boats condemned as forfeited under this Act shall, by direction of the principal Officer of the Provincial Revenue where the seizure shall have been secured, be sold at public auction, and the produce of such sale shall be applied as follows: the amount chargeable for the custody of the property seized shall first be deducted, and paid over for that service; one half of the remainder shall be paid to the officer or person seizing the same, without deduction; and the other half, after first deducting therefrom all costs incurred, shall be paid into the Treasury of this Province; but the Lieutenant Governor in Council may nevertheless direct that any vessel, boat, or goods seized and forfeited, shall be reserved for the public service, or destroyed.

7. All penalties and forfeitures imposed by this Act shall be prosecuted and recovered in the Supreme Court.

8. If any goods, vessel, or boat shall be seized as forfeited under this Act, the Judge of the said Court, with the consent of the persons seizing the same, may order re-delivery thereof, on security by Bond to Her Majesty, to be made by the party claiming the same with two sureties. In case the property is condemned, the value thereof shall be paid into the Court, and distributed as above directed.

9. All suits for recovery of penalties or forfeitures shall be in the name of Her Majesty, and shall be prosecuted by the Attorney General, or in his absence, by the Solicitor Général. If a dispute arise whether any person is authorized to seize under this Act, oral evidence may be heard thereupon.

10. If any seizure take place under this Act, and a dispute arise, the proof touching the illegality shall be upon the owner or claimant.

11. No claim to any thing seized under this Act, and returned

into the said Court for adjudication, shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney, or agent, and to the best of his knowledge and belief, before any Justice of the Peace.

12. No person shall enter a claim to any thing seized under this Act, until security shall have been given in a penalty not exceeding sixty pounds, to answer and pay costs occasioned by such claim, and in default of such security, the things seized shall be adjudged forfeited, and shall be condemned.

13. No writ shall be sued out against any officer or other person authorized to seize under this Act, for any thing done thereunder, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney, or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney, or agent; and no evidence of any cause of action shall be admitted, except such as shall be contained in the notice.

14. Every such action shall be brought within three months after the cause thereof has arisen.

15. If on any information or suit brought to trial under this Act, on account of any seizure, judgment shall be given for the claimant, and the Judge or Court shall certify on the Record that there was probable cause of seizure, the claimant shall not recover costs, and the person who made the seizure shall not be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the Judge or Court shall certify there was probable cause for the seizure, then the plaintiff, besides the thing seized, or its value, shall not recover more than two pence damages, and no costs of suit; and the defendant shall not be fined more than one shilling.

16. The seizing officer may within one month after notice of action received, tender amends to the party complaining, or his attorney, or agent, and plead such tender.

17. All actions for the recovery of penalties or forfeitures

imposed by this Act, must be commenced within three years after the offence committed.

18. No appeal shall be prosecuted from any decree or sentence of any Court in this Province, touching any penalty or forfeiture hereby imposed, unless the inhibition be applied for, and decreed, within twelve months from the decree or sentence being pronounced.

19. All coasting vessels under sixty tons burthen, owned in this Province, and engaged in the coasting trade thereof, shall be furnished with a narrow piece of plank, or iron, affixed to the bottom of the keel, and level therewith, extending aft at least six inches beyond the aperture between the stern post and rudder, and well secured on the keel; but this Section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the stern post and rudder.

20. Any owner or master of a coasting vessel not so furnished or built, running foul of any net set within or off the harbours, bays, or rivers of the coast of this Province, shall upon due proof thereof, forfeit five pounds, to be recovered by the party injured, to his own use as a private debt, leaving to such party grieved, nevertheless, his rights at common law for any further damages.

21. The owner of every vessel or boat under the burthen of fifteen tons belonging to this Province, and employed in fishing, coasting, or piloting, shall furnish a written description of the same, together with his own name, place of abode, and occupation, to the chief officer of the Provincial Treasury of the district wherein the owner resides; such officer shall thereupon grant to the owner a certificate, that the requisite description has been filed with him, and that a certain number has been fixed thereto; which number shall thereafter be painted conspicuously on both bows in figures not less than nine inches in length, and on the mainsail of such vessel or boat in figures not less than three feet in length.

22. Vessels or boats belonging to owners residing within the Bay of Fundy, shall be distinguished by numerals in red on the bows and mainsail; and vessels or boats belonging to owners residing on the Gulf coast of this Province, shall be distinguished by numerals in black upon a white patch on each bow, and in black upon the mainsail of such boat or vessel.

23. Every vessel or boat under the burthen of fifteen tons, belonging to this Province, and found fishing, coasting, or piloting near its shores, without bearing a distinguishing number on the bows and mainsail, as above provided, shall be seized and detained until properly numbered, and until the payment of a fine not exceeding five pounds.

24. If the owner of any vessel or boat under the burthen of fifteen tons, shall make any false or fraudulent description of the same, or any misrepresentation whatsoever, in order to obtain a certificate and number therefor, he shall forfeit twenty pounds.

25. If any person shall make a false or fraudulent declaration, oath, or representation with reference to the sale, transfer, registry, or re-registry of any ship or vessel above the burthen of fifteen tons, or shall conspire or collude with a foreigner in any false or fraudulent transfer of a foreign ship or vessel, either to obtain a British register therefor, or for any false, fraudulent, or deceptive purpose, or shall wilfully and knowingly aid in giving to the master or owner of a foreign vessel, being a foreigner, the character of a British subject, or to a foreign vessel the character of a British vessel, he shall forfeit one hundred pounds.

26. The Lieutenant Governor may by Commission under the Great Seal, appoint the Officer in command of any of Her Majesty's Vessels of War, employed on the coasts of this Province in the protection of the Fisheries, to be a Justice of the Peace in any or every County of this Province; such Commission to be in force while such Officer is employed on the coast in the protection of the Fisheries, and in command of one of Her Majesty's Vessels.

27. In this Chapter, "Vessels" shall include Ships, and "Harbours" shall include Ports, Bays, and Creeks.

28. This Act shall not come into operation until Her Majesty's approbation is thereunto had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 24th day of October 1853, and published and declared in the Province the 16th day of November 1853.]

6th GEORGE 4th—CHAPTER 4.

An Act to encourage the establishment of Banks for Savings in this Province.

Section.

1. Who entitled to the benefit of the Act, and what rules, &c. to enter.
2. Where to enter same, who to file, and effect of.
3. What Officers to receive no benefit from Institution. Exception as to salaried officers.
4. Rules, &c., when binding on Members and Officers; what to be evidence; when not to be removed; what fees.
5. Shares of Minors, how paid.
6. Who required to give Bonds; to whom, and how enforced.
7. Effects of Institution, in whom vested; who may sue and be sued, &c.
8. What moneys may be vested in Province Treasury.

Section.

9. Debentures, when and how to be given therefor.
10. Payment, when may be demanded.
11. On what previous requisites made.
12. Interest on Debentures, how computed and paid, and how renewed.
13. Debentures, amount of; what not to exceed; when, by, and to whom, and for what purpose Reports to be made.
14. How other funds may be invested.
15. Privilege of paying into Treasury, how restricted.
16. Friendly Societies, how and with whom may make deposits.
17. On death of depositor, how his deposits paid.

Schedule.

Passed 17th March 1825.

WHEREAS certain Provident Institutions or Banks for Savings have been established in this Province for the safe custody and increase of small savings belonging to mechanics, labourers, servants, and others the industrious classes of His Majesty's subjects; and it is expedient to give protection to such Institutions and the funds thereby established, and to afford encouragement to others to form the like Institutions;—

Be it therefore enacted, &c.—1. If any number of persons who have formed or shall form any Society in any part of this Province, for the purpose of establishing and maintaining any Institution in the nature of a Bank to receive deposits of money for the benefit of the persons depositing the same, and to accumulate the produce of so much as shall not be required by the depositors, their executors, or administrators, to be paid in the nature of compound interest, and to return the whole or any part of such deposit and the produce thereof, to the depositors, their executors, or administrators, deducting only out of such produce so much as shall be required to be so retained for the purpose of paying and discharging the necessary expenses attending the management of such Institution, according to such rules, orders, and regulations as shall have been or shall be established for that purpose, but deriving no benefit whatsoever from any such deposit or the produce thereof, shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules, orders, and regulations

established or to be established for the management of such Institution, to be entered, deposited, and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act.

2. Provided always, That no such Institutions as aforesaid shall have the benefit of this Act unless the rules, orders, and regulations for the management thereof, shall be entered in a Book or Books to be kept by an officer of such Institution to be appointed for that purpose ; and which Book or Books shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such Institutions, and unless such rules, orders, and regulations shall be fairly transcribed on parchment, and such transcript shall be deposited with the Clerk of the Peace for the County, or City and County wherein such Institution shall be established ; which transcript shall be filed by such Clerk of the Peace with the Records in his custody, without any fee or reward to be paid in respect thereof ; but nevertheless nothing herein contained shall extend to prevent any alteration in, or amendment of any such rules, orders, or regulations so entered and deposited and filed as aforesaid, or repealing or annulling the same or any of them in the whole or in part, or making any new rules, orders, or regulations for the management of any such Institution, in such manner as by the rules, orders, and regulations of such Institution shall from time to time be provided ; but such new rules, orders, or regulations, or such alteration in or amendment of former rules, orders, or regulations, or any order annulling or repealing any former rule, order, or regulation in the whole or in part, shall not be in force until the same respectively shall be entered in such Book or Books as aforesaid, and a transcript or transcripts thereof shall be deposited with such Clerk of the Peace as aforesaid, who shall file the same without fee or reward as aforesaid.

3. Provided also, That no such Institution as aforesaid shall have the benefit of this Act unless it shall be expressly provided by the rules, orders, and regulations for the management thereof, that no person or persons being Treasurer, Trustee, or Manager of such Institution, or having any control in the management thereof, shall derive any benefit from any deposit made in such Institution, but that the persons deposit-

ing money therein shall have the sole benefit of such deposits, and the produce thereof, save only and except such salaries and allowances, or other necessary expenses as shall, according to such rules, orders, and regulations, be provided for the charges of managing such Institution, and for remuneration to officers employed in the management thereof, exclusive of the Treasurer or Treasurers, Trustee or Trustees, or other persons having direction in the management of such Institution, who shall not directly or indirectly have any salary, allowance, profit, or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such Institution.

4. All rules, orders, and regulations from time to time made and in force for the management of any such Institution as aforesaid, and duly entered in such Book or Books as aforesaid, and deposited with such Clerk of the Peace as aforesaid, shall be binding on the several members and officers of such Institution, and the several depositors therein, and their representatives, all of whom shall be deemed and taken to have full notice thereof, by such entry and deposit as aforesaid; and the entry of such rules, orders, and regulations in such Book or Books as aforesaid, or the transcript thereof, deposited with such Clerk of the Peace as aforesaid, or a true copy of such transcript examined with the original and proved to be a true copy, shall be received as evidence of such rules, orders, and regulations respectively in all cases, and no certiorari shall be brought or allowed to remove any such rules, orders, or regulations into any of His Majesty's Courts of Record; and every copy of any such transcript, deposited with any Clerk of the Peace as aforesaid, shall be made without any fee or reward, except the actual expense of making such copy.

5. In case the managers of any such Institution shall receive any deposit of money from or for the benefit of any person under the age of twenty one years, it shall be lawful for the managers of such Institution to pay to such person his or her share and interest in the funds of such Institution, and the receipt of such person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in Law to act for him or herself.

6. If any Treasurer or Treasurers, or other officer or officers, or other person whatsoever, who shall be entrusted

with the receipt or custody of any sum or sums of money, subscribed or deposited for the purposes of such Institution, or any interest or dividend from time to time accruing thereby, shall be required by the rules or regulations of such Institution to become bound with sureties for the just and faithful execution of such office or trust in such sum or sums of money as shall be required by the rules, orders, and regulations of such Institution, such security shall and may be given by Bond or Bonds to the Clerk of the Peace for the time being, for the County, or City and County where such Institution shall be established; and in case of forfeiture, it shall be lawful for the persons authorized for that purpose by the rules, regulations, and orders of such Institution, to sue upon such Bond or Bonds, in the name of such Clerk of the Peace for the time being, and to carry on such suit at the costs and charges and for the use of the said Institution, fully indemnifying and saving harmless such Clerk of the Peace from all costs and charges in respect of such suit.

7. All moneys, goods, chattels, and effects whatever, and all securities for money, or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights or claims belonging to or had by such Institution, shall be vested in the Trustee or Trustees of such Institution for the time being, for the use and benefit of such Institution and of the respective depositors therein, their respective executors or administrators, according to the respective claims and interests; and after the death or removal of any Trustee or Trustees, shall vest in the succeeding Trustee or Trustees for the same estate and interest as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall for all purposes of action or suit, as well criminal as civil, in Law or in Equity, in any wise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding, when necessary, be stated to be the property of the person or persons appointed to the office of Trustee or Trustees of such Institution for the time being, in his, her, or their proper name or names, without further description; and such person or persons shall, and they are hereby respectively authorized, to bring or defend, or cause to be brought

and defended, any action, suit, or prosecution, criminal as well as civil, in Law or Equity, touching or concerning the property, right, or claim aforesaid, of, or belonging to, or had by such Institution; and such person or persons so appointed, shall and may in all cases concerning the property, right, or claim aforesaid of such Institution, sue and be sued, plead and be impleaded in his, her, or their proper name or names, as Trustee or Trustees of such Institution, without other description; and no such suit, action, or prosecution shall be discontinued or abate by the death of such person or persons, or his or their removal from the office of Trustee or Trustees as aforesaid, but the same shall and may be proceeded in by the succeeding Trustee or Trustees, in the proper name or names of the person or persons commencing the same, any law, usage, or custom to the contrary notwithstanding; and such succeeding Trustee or Trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of, or to be reimbursed from the funds of such Institution.

8. The Trustees of any Institution which shall take the benefit of this Act in manner hereinbefore provided, shall be and they are hereby empowered to pay into the Province Treasury, any sum or sums of money not being less than fifty pounds, upon the declaration of the Trustees of such Institution, or any two or more of them, that such moneys belong exclusively to the Institution for which such payment is intended to be made, whether such moneys shall have been deposited therein before the passing of this Act, or thereafter shall be deposited therein; and the Treasurer of the Province, or the Deputy Treasurer for the County, District, or place where such Institution shall be established, shall and is hereby required to receive all such moneys.

9. Provided always, That previous to any payment being made into the Province Treasury as aforesaid, the person or persons applying for that purpose shall in all cases produce to the Treasurer or Deputy Treasurer as aforesaid, an order according to the form in the Schedule to this Act annexed, marked A, under the hands of two of the Trustees of such Institution, on the account of which such payment is to be made, and on the production of such order and payment of the

sum therein expressed, to the said Treasurer, or Deputy Treasurer as aforesaid, at his office, the said Treasurer, or Deputy Treasurer as aforesaid, shall and he is hereby required to make out, within five days after such payment, for delivery to such person or persons producing the order of the said Trustees, a Debenture for the amount of such payment, carrying interest after the rate of six pounds per centum per annum, payable with the principal at the office of the Treasurer of the said Province, or of the Deputy Treasurer to whom such payment may be made, on the thirty first day of December then next following, to be dated on the day on which such payment or payments shall be made, which said Debenture shall be in the form specified in the Schedule to this Act annexed, marked B ; and the principal and interest of all such Debentures shall be charged and chargeable upon, and they are hereby charged upon and made payable out of any moneys remaining in the Province Treasury.

10. It shall be lawful for the Trustees of any such Institution, or any two or more of them, to demand payment at any time before the day of payment specified in such Debenture of the said Treasurer, or Deputy Treasurer as aforesaid, of the principal sum specified in any Debenture or Debentures issued in pursuance of the provisions of this Act, together with all the interest due thereon ; computing such interest from the day of the date of the Debenture inclusive, up to and including the five days following the date of the order of the said Trustees demanding such payment.

11. Provided always, That previous to the payment of the principal of any such Debenture or Debentures, together with the interest due thereon as aforesaid, the person or persons applying to receive the same shall in all cases produce to the Treasurer, or Deputy Treasurer as aforesaid, at his office, an order endorsed on the back thereof, under the hands of two Trustees of the Institution for which such payment shall be demanded, according to the form in the Schedule to this Act annexed, marked C ; and the said Treasurer, or Deputy Treasurer as aforesaid, shall and he is hereby required, within five days after the receipt of such order, to pay such principal and interest out of any moneys remaining in the Province Treasury ; provided nevertheless, that in all cases of payment

of the said Debentures on the said thirty first day of December in each and every year as hereinafter provided, the order for the payment thereof shall be dated five days preceding.

12. The interest on all Debentures issued in pursuance of the provisions of this Act, and remaining unpaid, shall be computed up to the said thirty first day of December in each and every year inclusive, and then paid off, together with the principal of such Debentures, if the Trustees of such Institution shall then require such principal to be so paid off; such payments to be made upon the order of two of the said Trustees, in manner hereinbefore directed, and new Debentures shall, on the first day of January immediately succeeding, be issued for the principal of the said Debentures of which the interest alone shall be so paid off; provided nevertheless, that if on renewing the said Debentures in manner before mentioned, the said Trustees shall require a new Debenture or Debentures with the interest to be added thereto, (the same being so expressed in the said order of the said Trustees) it shall be lawful for the said Treasurer, or Deputy Treasurer as aforesaid, to make out and deliver to the person or persons applying to receive the same, a Debenture or Debentures for the amount of the principal and interest of the original Debenture or Debentures, in lieu of paying the interest in money.

13. Provided always, That the Debentures to be issued in pursuance of the provisions of this Act, shall never at any time exceed the amount of ten thousand pounds in the aggregate, for the whole Province; and every Deputy Treasurer to whom any moneys may be paid by the Trustees of any such Institution, and who may have issued any Debenture or Debentures in pursuance of the provisions of this Act, shall four times in each year, that is to say, on the first day of January, the first day of April, the first day of July, and the first day of October, in each and every year, make a return to the said Province Treasurer of all Debentures that have been issued or paid off by him in the quarter immediately preceding the said days respectively; and the said Treasurer shall as soon as may be after the said first day of January in each year, make a General Return to the Lieutenant Governor or Commander in Chief of all Debentures issued or paid off throughout the Province, during the preceding year, in pursuance of

the provisions of this Act, to be laid before the General Assembly at their next Session ; and whenever the Debentures issued in pursuance of the provisions of this Act, shall amount in the aggregate for the whole Province to the said sum of ten thousand pounds, the said Treasurer and his Deputies shall cease to issue any more such Debentures, and it shall be the duty of the said Treasurer to give the requisite directions to his Deputies for this purpose.

14. Provided always, That it shall be lawful to and for the Trustees for the time being, of any such Institution, to invest, place, and deposit any moneys that may have been paid to such Institution upon interest in any other fund or stock, or upon good and valid security within this Province, in case the so doing may be made to answer the ends of such Institution.

15. And whereas it is expedient to provide against an improper investment of moneys under the provisions of this Act, the privilege aforesaid, of paying money into the Province Treasury, and of receiving Debentures for the same, shall be restricted to such Institutions only which shall by one or more of their rules provide that no person making deposits with such Institutions shall at any one time have more than the sum of fifty pounds bearing interest in the funds of such Institution ; and shall also, by one or more of their rules, provide that no description of persons shall be permitted to make deposits with such Institution except tradesmen, mechanics, labourers, servants, and other the industrious classes of His Majesty's subjects ; and it shall be lawful for the Treasurer, or Deputy Treasurer as aforesaid, previous to the payment of any sum or sums into the Province Treasury, in pursuance of this Act, to require the production of such rule or rules so limiting the sums to be deposited to the amount above mentioned, and so limiting the description of persons permitted to make deposits with such Institution, certified under the hands of two of the Trustees or Managers of each such Institution respectively.

16. Provided always, That any benevolent or friendly Society may, through their Treasurer, Steward, or other officer or officers, deposit the whole or any part of their funds in the funds of any Institution which shall take the benefit of this Act, under such terms and conditions as shall be specially

provided for that purpose by the rules, orders, and regulations of such Institution, provided the same shall not exceed the amount of one hundred pounds, any thing herein before contained to the contrary notwithstanding.

17. In case any depositor in the funds of any such Institution shall die, it shall be lawful for the Trustees or Managers of such Institution, and they are hereby authorized and required, if no Will shall be proved, or no Letters of Administration shall be taken out within six calendar months after the death of the said depositor, to pay the same according to the rules and regulations of the said Institution in such case made and provided ; and in the event of there being no rules and regulations made in that behalf, then the said Trustees or Managers are hereby authorized and required to pay, and divide the same, to and amongst the person or persons entitled to the effects of the deceased Intestate, according to the Act of Assembly for the distribution of the Estate of Intestates.

SCHEDULE.

(A)

Form of the Order of the Trustees to make payments into the Province Treasury, to be produced to the Province Treasurer or one of his Deputies.

We, being two of the Trustees of the Saving Bank established at [*insert the Town and County, or City,*] do in pursuance of an Act of Assembly of the 6th Geo. 4th, Chap. —, intituled an Act [*here insert the Title of this Act*] hereby authorize and direct A. B. to pay into the Province Treasury pounds, and to receive for the same on account of us the said Trustees, a Saving Bank Debenture of the like amount, carrying interest at the rate of six pounds per centum per annum : And we hereby declare that the sum above stated is the exclusive property of the said Saving Bank specified in this our order, arising wholly from individual contributors of the description named in the said Act, and not exceeding the amount specified in the said Act for the contribution of each contributor, or arising from the voluntary donations to the funds of the said Society.

Witness our hands this day of

A. }
B. } Trustees.

Endorsement on the back of the Trustees Order, upon receipt of the Debenture.

Received the Debenture within described, in virtue of the foregoing order.

Witness my hand,

A. Acting for the Trustees.

(B)

Form of the Debenture to be issued by the Treasurer or Deputy Treasurer.

Whereas by virtue of an Act of Assembly of the 6th Geo. 4th, Chap. , intituled [*insert the Title of this Act*] the sum of pounds hath been paid into the Treasury of the Province of New Brunswick, on account of the Saving Bank established at [*insert the Town and County, or City*].

Now this Debenture is chargeable on the moneys in the Treasury of the said Province, and entitles the said Saving Bank to the principal sum of pounds, carrying an interest after the rate of six pounds per centum per annum, from the day of the date hereof, payable at the office of the Treasurer of the said Province, (*or of the Deputy Treasurer for the place where the money be paid in, as the case may be,*) by the order of two of such Trustees endorsed thereon, on the thirty first day of December next after the date hereof, or at any time before, upon the production of such order at the said office, the same being endorsed hereon, under the hands of two of the Trustees of the said Saving Bank, directing payment thereof to be demanded by the person producing the same; and the interest shall in all cases be computed to and include the five days following the date of such order.

Dated this day of

A. Province Treasurer,
(or Deputy Treasurer for .)

This Debenture is not transferable nor assignable.

(C)

Endorsement of the Order of the Trustees on the Debenture to receive payment.

We, two of the Trustees of the Saving Bank within described, do hereby authorize and direct A. B. to demand and receive both the principal and interest of this Debenture

in money, (*or and receive the interest due thereon in money, and also a new Debenture of the like amount in lieu of this Debenture, bearing the like rate of interest, or a new Debenture or Debentures of the like amount, and the interest added thereto, bearing the like rate of interest,*) *as the case may be.*

Witness our hands this day of

A. } *Trustees of the said*
B. } *Saving Bank.*

The receipt of the person acting for the Trustees must be subjoined to the order.

6th WILLIAM 4th—CHAPTER 52.

An Act to make provision for carrying on the affairs of the Savings Bank at Saint John.

Section 1.—When and by whom meetings of Members to be called, and what business may be done at the same.

Passed 16th March 1836.

WHEREAS in consequence of the difficulties in which the Bank for Savings established in the City of Saint John has lately been involved, it is expedient to make some further provision by Act of Assembly for carrying on the affairs of the said Institution;—

Be it enacted, &c.—1. The acting Trustees and Managers of the said Institution, or some two or more of them, are hereby authorized and required, within two months after the passing of this 'Act, to call a meeting of the members of the said Institution, and of any persons desirous to become members thereof, giving at least fourteen days notice in two of the Newspapers published in the said City, of the time and place of such meeting, and such meeting shall be deemed to be the annual meeting of the members of the said Institution for the present year under the rules and regulations for the management thereof deposited and filed in the office of the Clerk of the Peace for the City and County of Saint John; and it shall be lawful for such persons so assembled at such meeting, or at any adjourned meeting, to choose Trustees and Managers, and to alter and amend the said rules and regulations, or to make new rules and regulations for the management of the said Institution; provided always, that any rules and regulations

so to be made shall be conformable to the provisions of an Act made and passed in the sixth year of the Reign of King George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in this Province*, and shall be entered, deposited, and filed in the manner directed in and by the said Act.

4th VICTORIA—CHAPTER 20.

An Act to extend the provisions of an Act intituled *An Act to encourage the establishment of Banks for Savings in this Province*.

Section 1.—What further amount Treasurer authorized to receive.

Passed 19th March 1841.

WHEREAS in and by the thirteenth Section of an Act made and passed in the sixth year of the Reign of King George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in the Province*, it is among other things enacted, that the Debentures to be issued in pursuance of the provisions of the said Act shall never at any time exceed the amount of ten thousand pounds in the aggregate for the whole Province; and that whenever the Debentures issued in pursuance of the provisions of the said Act shall amount in the aggregate for the whole Province to the said sum of ten thousand pounds, the Province Treasurer and his Deputies shall cease to issue any more such Debentures, and it shall be the duty of the said Treasurer to give the requisite directions to his Deputies for that purpose: And whereas it is deemed expedient to extend the provisions of the same;—

Be it therefore enacted, &c.—1. It shall and may be lawful for the Treasurer of the Province, and his Deputies, in addition to the sum of ten thousand pounds to be by them received, and for which they are authorized and empowered to issue Debentures in and by this Act, to receive further deposits to the amount of ten thousand pounds, and to issue Debentures therefor in like manner and subject nevertheless to the provisions and restrictions in the said Act contained, any thing in the said Act to the contrary thereof in any wise notwithstanding.

4th VICTORIA—CHAPTER 30.

An Act further to amend the Act to encourage the establishment of Banks of Savings in this Province.

Section 1.—Inspectors of Savings Banks, by whom appointed, and duties.

Passed 19th March 1841.

Be it enacted, &c.—1. From and after the passing of this Act, His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of Her Majesty's Executive Council, shall have full power and authority to appoint from time to time, and at any time, two or more persons to examine and inspect the state and condition of the several Banks relating to Savings in this Province, and to report thereon to His Excellency the Lieutenant Governor.

9th VICTORIA—CHAPTER 61.

An Act further to extend the provisions of an Act intituled *An Act to encourage the establishment of Banks for Savings in the Province.*

Section 1.—What further amount Treasurer authorized to receive.

Passed 14th April 1846.

WHEREAS in and by the thirteenth Section of an Act made and passed in the sixth year of the Reign of King George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in the Province*, it is among other things enacted, that the Debentures to be issued in pursuance of the provisions of the said Act shall never at any time exceed the amount of ten thousand pounds in the aggregate for the whole Province; and that whenever the Debentures issued in pursuance of the provisions of the said Act shall amount in the aggregate for the whole Province to the said sum of ten thousand pounds, the Province Treasurer and his Deputies shall cease to issue any more such Debentures, and it shall be the duty of the said Treasurer to give the requisite directions to his Deputies for that purpose: And whereas in and by an Act made and passed in the fourth year of the Reign of Her present Majesty, intituled *An Act to extend the provisions of an Act intituled 'An Act to encourage the establishment of Banks for Savings in this Province,'* it was enacted, that it should be

lawful for the Treasurer of the Province and his Deputies to receive deposits and issue Debentures for the sum of ten thousand pounds, in addition to the said sum of ten thousand pounds mentioned in the first herein recited Act : And whereas it is deemed expedient further to extend the provisions of the said recited Acts ;—

Be it therefore enacted, &c.—1. It shall and may be lawful for the Treasurer of the Province and his Deputies, in addition to the sum of twenty thousand pounds to be by them received, and for which they are authorized and empowered to issue Debentures in and by the said several recited Acts, to receive further deposits to the amount of ten thousand pounds, and to issue Debentures therefor in like manner, and subject nevertheless to the provisions and restrictions in the said Act herein first recited contained, any thing in the said last mentioned Act to the contrary thereof in any wise notwithstanding.

10th VICTORIA—CHAPTER 43.

An Act relating to Banks for Savings.

Section.

1. Repeal of Acts, with saving clause.
2. By and with whom deposits may be made in a County.
3. Depositors allowed what interest.
4. When deposits to be received and paid.
5. Deputy Treasurers, when to remit balances, &c.

Section.

6. Treasurer how to keep Accounts.
7. To furnish Deputies with what books.
8. What commission allowed Deputy Treasurers.
9. Powers of Act confined to what Counties and persons.

Passed 7th April 1847.

WHEREAS the Acts now in force relative to Banks for Savings have, in many parts of this Province, been found insufficient to effect the objects contemplated, and it is expedient to repeal the same, (except so far as may relate to the Savings Bank established at the City of Saint John) and to make other provision in lieu thereof ;—

Be it therefore enacted, &c.—1. The several Acts hereinafter mentioned, shall be and the same are hereby repealed, (save as is hereinafter otherwise provided) that is to say :—An Act passed in the sixth year of the Reign of His late Majesty King George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in this Province* ; and also an Act made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to make*

provision for carrying on the affairs of the Savings Bank at Saint John ; and also an Act made and passed in the fourth year of the Reign of Her present Majesty, intituled An Act to extend the provisions of an Act intituled 'An Act to encourage the establishment of Banks for Savings in this Province ;' and also an Act made and passed in the ninth year of the Reign of Her present Majesty, intituled An Act further to extend the provisions of an Act intituled 'An Act to encourage the establishment of Banks for Savings in this Province ;' provided always, that nothing in this Act contained, shall extend to repeal any of the said recited Acts, so far as they or any of them repeal any former Act or Acts, or so far as respects any act, matter, or thing heretofore done under or by virtue of the said Acts, or so far as may relate to any Savings Bank established or to be established under the provisions of the said Acts, at the City and County of Saint John, but that any such Bank so established or to be established, agreeably to the provisions of all or any of the said recited Acts, shall be good, efficient, and valid to all intents and purposes, as if this Act had not been made and passed ; and provided also, that nothing in this Act contained shall be construed in any way to affect or repeal any of the provisions of an Act made and passed in the ninth year of the Reign of Her present Majesty, intituled An Act to make provision for winding up the affairs of the Savings Bank at Fredericton.

2. All tradesmen, mechanics, labourers, servants, and others the industrious classes of Her Majesty's subjects in this Province, and likewise the Treasurer of Friendly Societies, established or to be established therein, may deposit their respective savings with any Deputy Treasurer of the County, in or near which such depositor may happen to reside, which deposits every such Deputy Treasurer is hereby authorized and required to receive as hereinafter mentioned.

3. Every such depositor shall be entitled to receive for the moneys so deposited, interest at the rate of five per cent. per annum, provided that no one depositor shall be allowed or entitled to receive at any time interest for a greater sum than fifty pounds.

4. It shall be the duty of every such Deputy Treasurer to attend (at the usual place where he keeps his office) on the

first Monday in every month, from ten to three o'clock of the same day, for the purpose of receiving any such deposits, and in like manner to attend on the first Tuesday after the said first Monday in each month, for the purpose of paying out to any depositor such portion of such deposits as the depositor may wish to withdraw; provided that no less a sum than twenty shillings shall be received or paid out on any such day from or to any one such depositor; and provided that in all cases when such Deputy Treasurer shall not have sufficient funds in hand to pay such depositor the amount required at the time the same may be so required, the same shall be paid by a negotiable draft on the Province Treasurer.

5. On the first Wednesday after the said first Monday in every month, or as soon after as conveniently may be, the said Deputy Treasurers shall remit any balance of deposit moneys which may be in their hands to the Province Treasurer, with an Account or Schedule of the several deposits received or withdrawn during the said Monday and Tuesday of the same month.

6. The said Province Treasurer shall open a separate Account with each of the Deputy Treasurers, shewing the sums deposited with and withdrawn from them respectively; and at the end of each and every year he shall and is hereby required to make and transmit to the Auditor General or Provincial Secretary, an Abstract of such Accounts, in order to its being laid before the Legislature.

7. It shall be the duty of the said Province Treasurer to furnish such Deputy Treasurers with all such necessary books and printed blanks as may be required for the purposes of this Act, the same to be charged by and allowed to him as a part of the contingent expenses of his office.

8. Such Deputy Treasurers shall be allowed to charge in their Accounts against the Province, over and above any other commission under the Act to provide for the collection of the Revenue, a commission of one per cent. and no more for all moneys so deposited with them.

9. The powers vested in the several Deputy Treasurers in and by the second Section of this Act, to receive deposits, shall be confined to Miramichi, in the County of Northumberland; Richibucto, in the County of Kent; Bathurst, in the County

of Gloucester; Dalhousie, in the County of Restigouche; Shediac, in the County of Westmorland; and Saint Andrews, in the County of Charlotte; any thing contained in this Act to the contrary notwithstanding; and no other, save and except the Deputy Treasurers established at the aforementioned ports or places, shall be allowed to receive any deposit or deposits authorized by this Act.

15th VICTORIA—CHAPTER 58.

An Act further to extend the provisions of the Bank for Savings at Saint John.

Section.

1. What further amount Treasurer may receive in Saint John.
2. Debentures may be called in and paid unless interest reduced.

Section.

3. When Trustees may repay loss formerly sustained.

Passed 7th April 1852.

Be it enacted, &c.—1. It shall be lawful for the Treasurer of the Province to receive further deposits from the Savings Bank established in the City of Saint John, and to issue Debentures for the same, in like manner and subject to the like restrictions and provisions as are contained in the Act of Assembly passed in the sixth year of the Reign of His Majesty George the Fourth, intituled *An Act to encourage the establishment of Banks for Savings in this Province*, provided that the whole amount shall not exceed fifty thousand pounds over and above the amount for which Debentures have already issued and deposits been received within the Province; and provided further, that the interest which the said Savings Bank in Saint John shall be entitled to receive on such Debentures shall not exceed the rate of five per cent. per annum.

2. The Provincial Treasurer shall from time to time call in any of the Debentures already issued, and pay the same, as well as any of the said deposits, unless the holders of such Debentures or the depositors shall prefer to continue the same in the Public Treasury, in which case he shall issue new Debentures at a reduced rate of interest, or reduce the rate of interest to the amount per cent. per annum above mentioned, by endorsement on the Debentures already issued; such Debentures to be of the like form, and subject to the like restric-

tions and provisions as in the said recited Act mentioned, except so far as this Act shall control the same.

3. And whereas a grant of the sum of one thousand two hundred and ninety three pounds ten shillings and ten pence was made out of the Treasury of this Province in the year of our Lord one thousand eight hundred and thirty six, to make up a loss sustained by the Savings Bank at Saint John, and it is just that the same should be repaid out of the profits arising from the management of the said Savings Bank ;—It shall be lawful for the Trustees or Managers of the said Savings Bank from time to time to pay out of any profits which may at any time be in or belong to the said Savings Bank, after all interests due the depositors and expenses of management are paid, into the hands of the Province Treasurer for the public service, such instalments of the said sum of one thousand two hundred and ninety three pounds ten shillings and ten pence as they may deem advisable, until the whole of such sum shall be finally repaid.

45th GEORGE 3rd—CHAPTER 12.

An Act for encouraging and extending Literature in this Province.

Section.

1. Public Grammar School, where established.
2. Corporation, how established.
3. Board, who to form, and powers.
4. Who to act as President, and what duties.

Section.

5. Vacancies in Board, how filled.
6. Repealed.
7. Free Scholars.
8. School, how endowed.

Passed 5th March 1805.

WHEREAS the Education of Youth is of the utmost importance in Society, and public attention to that object has by experience been found to be attended with the most beneficial effects ;—

Be it therefore enacted, &c.—1. That a Public Grammar School be and the same is hereby established in the City of Saint John.

2. The Rector of Trinity Church in the said City for the time being, the Mayor of the said City for the time being, and the Recorder of the said City for the time being, together with the Honorable George Leonard, Esquire, Jonathan Bliss, William Pagan, John Robinson, John Black, and Thomas

Wetmore, Esquires, inhabitants of the said City, be and they are hereby appointed Trustees and Directors of the said School, and the said Rector of Trinity Church always to be President of the Board ; and that the said President and Directors shall be and they are hereby incorporated by the name of "The President and Directors of the Public Grammar School in the City of Saint John," and shall by that name have perpetual succession, and be enabled to sue and be sued, implead and be impleaded, answer and be answered unto, and to receive, take, and hold gifts and grants of lands and real estate, (the annual income of which shall not exceed one thousand pounds) and to accept and receive donations for the erection of a building for and the endowment of the said School.

3. The President and Directors of the said Grammar School, and their successors, or the major part of them, when duly summoned and assembled, shall form a Board for dispatch of business, and such Board of Directors, or the major part of them so assembled, are hereby empowered to point out and procure a proper place whereon to erect the building for the said School, to contract for and superintend the building thereof, to provide a Master and one or more Ushers or Tutors, as they shall judge expedient, and from time to time to make and establish bye laws, ordinances, and regulations for the government of the said School, and to enforce obedience to the same by fines and expulsions, or other public censures, as they may judge proper.

4. During any vacancy or absence of the Rector of the said Church, the Mayor of the said City shall act as President ; and it shall be the duty of the President at all times to summon a Board of Directors whenever the same shall be requested by three or more of the said Directors ; and in case of sickness or absence of the said Rector, the Board may be summoned by the said Mayor, and in case of the inability or absence of both, the said Board may be summoned by the said Recorder.

5. In case of death or removal from the said City of any of the said Directors not being permanent by office, the remaining Directors at a Board for that purpose, to be summoned within three months after, shall elect another fit person, being an inhabitant of the said City, for his successor, who being approved of by the Commander in Chief of the said Province

for the time being, shall be one of the Directors of the said School, and every other vacancy shall be filled from time to time in like manner.

6. Repealed by 5 W. 4, cap. 30. *See post. page 194.*

7. Whenever the said President and Directors shall think proper they may admit any number not exceeding eight, to be free Scholars of the said Grammar School, without any charge for their tuition.

8. That one hundred pounds annually be included in the estimate for the ordinary expenses of the Province, and granted to the said President and Directors of the said Public Grammar School, to be applied by them for or towards the support of the Master thereof; and that the sum of one hundred pounds be granted to the said President and Directors, for the purpose of assisting them to purchase or erect a building for the said School; and that they, the said President and Directors, shall be accountable from time to time to the Legislature of the Province for their conduct and management of the property so vested and to be vested in them by virtue and in pursuance of this Act; provided always, that as soon as the annual sum of said Grammar School, in whatever manner the same may arise, shall amount to six hundred pounds, then and in such case the annual sum of one hundred pounds hereby granted shall cease.

56th GEORGE 3rd—CHAPTER 15.

An Act for establishing a Grammar School in the Town of Saint Andrews, in the County of Charlotte.

Section.

1. Grammar School established.
2. Corporation, how instituted.
3. Building for School, how obtained.
4. Board, how summoned.
5. Vacancies, how filled.

Section.

6. Visitations, when held.
7. Free Scholars.
8. What sums to be allowed for School and building, and when to cease.

Passed 11th March 1816.

WHEREAS the Education of Youth is of the utmost importance in Society, and public attention to that object has by experience been found to be attended with the most beneficial effects;—

Be it therefore enacted, &c.—1. That a Public Grammar

School be and the same is hereby established in the Town of Saint Andrews, in the County of Charlotte.

2. The Rector of Saint Andrews Church, in the Parish of Saint Andrews, for the time being, together with Robert Pagan, John Campbell, John Dunn, Colin Campbell, David W. Jack, Harris Hatch, Thomas Wyer, Junior, and John Strang, inhabitants of the County of Charlotte, be and they are hereby appointed Trustees and Directors of the said School, the said Rector for the time being always to be President of the Board; and that the said President and Directors shall be and they are hereby incorporated by the name of "The President and Directors of the Public Grammar School in the Town of Saint Andrews," and shall by that name have perpetual succession, and be enabled to sue and be sued, implead and be impleaded, answer and be answered unto, and to receive, take, and hold gifts and grants of land and real estates, (the annual income of which shall not exceed one thousand pounds) and to accept and receive donations for the erection of a building and for the endowment of the said School.

3. The President and Directors of the said Grammar School, and their successors, or the major part of them, when duly summoned and assembled, shall form a Board for the dispatch of business, and such Board of Directors, or the major part of them so assembled, are hereby empowered to point out and procure a proper place whereon to erect the building for the said School, to contract for and superintend the building thereof, to provide a Master and one or more Ushers or Teachers, as they shall judge expedient, and from time to time to make and establish bye laws, ordinances, and regulations for the government of the said School, and to enforce obedience to the same by fines and expulsions, or other public censures, as they may judge proper.

4. During any vacancy in the Rectory, or absence of the Rector of the said Church, the senior Member of the Board of Directors shall act as President; and it shall be the duty of the President at all times to summon a Board of Directors whenever the same shall be requested by three or more of the said Directors; and in case of the sickness or absence of the said Rector, the Board may be summoned by the said senior Member.

5. In case of the death or removal from the said County of any of the said Directors, the remaining Directors at a Board for that purpose to be summoned, shall elect another fit person, being an inhabitant of the said County, for his successor, who being approved of by the Commander in Chief of the said Province for the time being, shall be one of the Directors of the said School, and every other vacancy shall be filled from time to time in like manner.

6. The said President and Directors shall hold public visitations and examinations of the said School twice in every year, to wit, on the first Tuesday in April and first Tuesday in September.

7. Whenever the said President and Directors shall think proper, they may admit any number not exceeding eight, to be free Scholars of the said Grammar School, without any charge for their tuition.

8. That one hundred pounds annually be included in the estimate for the ordinary expenses of the Province, and granted to the said President and Directors of the said Public Grammar School, to be applied by them for or towards the support of the Master thereof, when such Master shall be procured; and that the sum of two hundred pounds be granted to the said President and Directors, for the purpose of assisting them to purchase or erect a building for the said School; and that they, the said President and Directors, shall be accountable from time to time to the Legislature of the Province for their conduct and management of the property so vested and to be vested in them by virtue and in pursuance of this Act; provided always, that as soon as the annual income of said Grammar School, in whatever manner the same may arise, shall amount to six hundred pounds, then and in such case the annual sum of one hundred pounds hereby granted shall cease.

4th GEORGE 4th—CHAPTER 33.

An Act to enable the Governor and Trustees of the College of New Brunswick to make a conditional surrender of their Charter, and for the further endowment of the College upon the granting of a new Charter.

Section.

1. Trustees of College empowered to surrender Charter. Proviso.
2. Powers of His Majesty on granting new Charter.

Section.

3. When old Charter vacated, in whom property to vest. How tenants affected. Statutes annulled, with what effect.
4. Repealed.
5. Suspending clause.

Passed 25th March 1823.

WHEREAS the Governor and Trustees of the College of New Brunswick have, by their Petition under their Seal of Incorporation to this General Assembly, stated “ that by a Provincial Charter under the Great Seal of this Province, bearing date the twelfth day of February in the year of our Lord one thousand and eight hundred, granted in the King’s name, during the administration of the late Lieutenant Governor Carleton, the College of New Brunswick was established and incorporated, with perpetual succession, by the name of “ The Governor and Trustees of the College of New Brunswick,” and with power to confer Degrees in the liberal Arts and Sciences, in the same manner as they are conferred by the Universities in England ; that until very lately the funds and state of the Corporation were such as to prevent the Petitioners from attempting to put the Institution into any thing like a Collegiate form ; that an attempt has recently been made to organize, and to put into operation, the College, and a President was accordingly appointed, and Statutes proposed and established, under which four Students were matriculated ; that the Petitioners are very desirous to see the Institution placed upon a respectable footing, and so/as to ensure to those who may receive their instruction there, all the advantages which usually result from a Collegiate education ; that in order to effect the same, the Petitioners are of opinion the first step to be taken will be to surrender the present Charter into the hands of His Majesty, and to solicit one in its place to pass under the Great Seal of the United Kingdom, which the Petitioners have reason to hope may be obtained, together with some other marks of His Majesty’s favour ; that the estates and property already vested in the Corporation are so circumstanced as to make it necessary that an Act of the General Assembly should pass, to enable them to surrender the present Charter, conditionally, so as to preserve the rights of the College and the interests of those who hold under titles from

“ the Petitioners, and who are connected with the Institution:” And whereas the said Governor and Trustees by their said Petition, have prayed that such an Act may pass the General Assembly as may answer the intended purpose;—

Be it therefore enacted, &c.—1. The said Governor and Trustees of the College of New Brunswick, shall and may have power and authority, and they are hereby authorized and empowered, by an Instrument in writing under their said Seal of Incorporation, to surrender into His Majesty's hands the said Charter of Incorporation, bearing date as aforesaid the twelfth day of February in the year of our Lord one thousand and eight hundred, upon condition that His Majesty will accept of the same, and will be graciously pleased to grant another Charter in its place, for the re-incorporation of the said College; provided always, that until such new Charter shall be granted, and the same go into operation, the said Provincial Charter, and the powers of the said Governor and Trustees, and all estates and rights vested in them, and all statutes, rules, and orders made or to be made by them, shall continue to exist in the same manner, to all intents and purposes, as if this Act, and the surrender so to be made under and by virtue hereof, had not been made; any thing herein contained to the contrary in any wise notwithstanding.

2. Should His Majesty be graciously pleased to favour this Province with such a Charter as is intended to be prayed for by the said Petition, His said Majesty shall be deemed and taken to be the Founder of the College, and shall be vested with all the rights and powers by law belonging to the Founder of a College, and that His said Majesty may in and by such new Charter, nominate, constitute, and appoint such persons to form the Corporation of the College, and such persons to be Patron and Visitor respectively, with such powers and authorities to be vested in them severally, and in general may put the said Collegiate establishment upon such a footing as to His said Majesty in his Royal wisdom may seem meet.

3. Immediately upon the commencement of the exercise of the powers to be vested by the contemplated new Charter, the said Provincial Charter, and the enrolment thereof in the Chancery, shall be, and shall be deemed and taken to be, *ipso facto* cancelled and annulled, and that all

powers and authorities vested, as well in the said Governor and Trustees, as in all and singular the officers by them appointed, shall from that time cease, and that all debts at that time due and owing to the said Governor and Trustees, shall thence become debts due and owing to the new Corporation of the said College, and recoverable in the name of such new Corporation as if the same debts had been contracted with them; and that property real and personal of every kind and description which may at that time belong to and be holden by the said Governor and Trustees, shall immediately thereupon be transferred to and vested in the said new Corporation, and be holden thenceforth by such new Corporation in the same manner as the said Governor and Trustees might have held and enjoyed the same if the surrender of the said Provincial Charter had not been made; and that all tenants of the said Governor and Trustees, shall thereupon be deemed and taken to be tenants of the said new Corporation, in the same manner as if they had originally become tenants of such new Corporation; and that all the statutes, rules, and orders of the said Governor and Trustees of the College of New Brunswick, shall thenceforth cease to exist; provided always, that the Graduates and Students of the said College shall be entitled to all the benefits resulting, or which would have resulted to them severally, if such statutes, rules, and orders had continued in force, and such surrender had not been made, any thing herein contained to the contrary notwithstanding.

4. Repealed by 9 & 10 G. 4, cap. 29. *See post. page 188.*

5. This Act shall be deemed and taken to be a Public Act, but not to be in force until His Majesty's Royal approbation be thereunto had and declared.

[*This Act was confirmed, finally enacted, and ratified, by an Order of His Majesty in Council dated at the Court of Windsor the 18th of November 1823.*]

9th and 10th GEORGE 4th—CHAPTER 29.

An Act for the endowment of King's College at Fredericton, in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools throughout the Province.

| Section. | Section. |
|--|--|
| 1. Rights of Governor and Trustees, how transferred. Graduates, &c. entitled to what privileges. | 11. Trustees, when to visit Schools. |
| 2. Repeal of Acts. | 12. Course of tuition, and admission of free Scholars. |
| 3. Endowment. | 13. For what Counties sums allowed for Grammar Schools, and how drawn. |
| 4. On what condition. | 14. On what condition allowed. |
| 5. The Douglas Medal. | 15. When and how to be drawn, and revert. |
| 6. Repeal of Acts, with saving clause. | 16. Master, &c. of School, not to pay anything. |
| 7. Trustees of Grammar Schools, how appointed. | 17. Who not to be Master, &c. |
| 8. Powers of Trustees. | 18. Trustees and Bye Laws to continue. |
| 9. Further powers of. Their Bye Laws, how approved. | 19. Trustees, to whom accountable. |
| 10. Licence to teach, when required. | 20. Grammar School in Saint John, to what additional sum entitled. |
| | 21. Act deemed Public. |

Passed 10th February 1829.

WHEREAS in pursuance of the power and authority in them vested by an Act passed in the fourth year of His Majesty's Reign, intituled *An Act to enable the Governor and Trustees of the College of New Brunswick to make a conditional surrender of their Charter, and for the further endowment of the College upon the granting of a new Charter*, the said Governor and Trustees did by an Instrument in writing under their Seal of Incorporation, surrender into His Majesty's hands their Charter of Incorporation, upon condition that His Majesty would accept the same and be pleased to grant another Charter in its place for the re-incorporation of the said College: And whereas His Majesty has been graciously pleased to accept the said resignation so made by the said Governor and Trustees of their said Charter of Incorporation, and to grant in the place thereof a Royal Charter under the Great Seal of the United Kingdom, bearing date the fifteenth day of December, in the eighth year of His Majesty's Reign, thereby establishing a College with the privilege of a University, by the name of King's College, and incorporating the Members thereof by the name and style of "The Chancellor, President, and Scholars of King's College at Fredericton, in the Province of New Brunswick:" And whereas in and by the said Act it was further provided, that immediately upon the commencement of the exercise of the powers to be vested by the contemplated new Charter, the said Provincial Charter and the enrolment thereof should be deemed and taken to be *ipso facto* cancelled and annulled, and the property and debts of the said Governor and Trustees transferred to and vested in the new Corporation: And whereas on the first day of January in this present Session a commencement was made of the exercise of the powers vested by the said new Charter;—

Be it therefore declared and enacted, &c.—1. All debts due and owing to the Governor and Trustees of the College of New Brunswick, shall be paid to, and may be recoverable by and in the name of “The Chancellor, President, and Scholars of King’s College at Fredericton, in the Province of New Brunswick,” in the same manner as if the said debts had been contracted with them; and all property, real and personal, of the said Governor and Trustees, has now become vested in the said new Corporation, and shall be holden henceforth by them in the same manner as the said Governor and Trustees might have held the same; and all tenants of the said Governor and Trustees shall be deemed and taken to be tenants of the said new Corporation, and the said new Corporation are and shall be liable to the debts, contracts, and engagements made and entered into by the said Governor and Trustees, in the same manner as if the same had been contracted by the said new Corporation; and the Graduates and Students of the late College of New Brunswick shall be deemed and taken to be Graduates and Students of the present University of King’s College, and entitled to the rights and privileges as such.

2. And whereas by the Acts now in force, the several yearly sums of one hundred pounds, one hundred and fifty pounds, and six hundred pounds, have been appropriated for the support and endowment of the College, and the Schools connected therewith; and the further annual sum of two hundred and fifty pounds was pledged by a Resolution of the House of Assembly, for the better endowment of the College, in consideration of the Royal aid which has been promised for that purpose: And whereas it is deemed expedient to repeal those Acts, and grant in this Act the aforesaid sum;—An Act passed in the forty fifth year of the Reign of His late Majesty King George the Third, intituled *An Act for granting aid in support of the College of New Brunswick, incorporated by Charter, and established at Fredericton*; and also, an Act passed in the fifty sixth year of the Reign of His said late Majesty, intituled *An Act for granting further aid in support of the College of New Brunswick, and of the Public Grammar School of the City of Saint John*; and the fourth Section of the said Act passed in the fourth year of His present Majesty’s Reign, be and are hereby severally repealed.

3. That there be granted to the said Chancellor, President, and Scholars of King's College at Fredericton, in the Province of New Brunswick, and their successors, for the endowment of the said College, and also the establishment and support of Collegiate Schools, the yearly sum of eleven hundred pounds, to be paid from the Treasury of the Province, and drawn out of the same by Warrants of the Lieutenant Governor or Commander in Chief of this Province for the time being, by and with the advice and consent of His Majesty's Council.

4. Provided always, That the sum of money hereby granted is upon condition, that His Majesty will be graciously pleased to grant for the further endowment of the said King's College the annual sum of one thousand pounds sterling, out of His Majesty's Casual Revenue of this Province, or from such other branch of His Majesty's Royal Revenue as he may be pleased to appoint for that purpose; provided nevertheless, that nothing herein contained shall extend or be construed to authorize the appropriation of any part of the Public Revenue of this Province, without the consent of the Legislature thereof.

5. Whereas His Excellency Sir Howard Douglas, Baronet, Lieutenant Governor of this Province, and Chancellor of the said University, has been pleased to intimate his wish and intention to make a donation of the sum of one hundred pounds, to be placed in some safe funds on interest, and the yearly interest to be applied to the purchase of a suitable Medal or prize for the best composition in prose or verse in the Greek, Latin, or English language, on such subject as the Chancellor for the time being may appoint, under any regulations to be made for that purpose by the Chancellor and College Council; and it is the express desire of His Excellency, that the said sum should be placed in the Treasury of the Province, under the security of the Legislature;—Upon the said sum of one hundred pounds being paid by His Excellency into the Treasury of the Province, the same may be applied to the public service of the Province, to be disposed of as other public moneys by the Legislature; and that yearly and every year from henceforth for ever there be paid out of the Treasury of this Province to the Chancellor of the said University for the time being, the sum of ten pounds, to be applied and disposed of according to the munificent intention of the donor.

6. And whereas many of the provisions of the several Acts for the establishment of Grammar Schools in the several Counties of this Province have been found inadequate for the purposes thereby intended, and it has become expedient to alter and make the same more effectual;—An Act made and passed in the fifty sixth year of the Reign of His late Majesty King George the Third, intituled *An Act to establish Grammar Schools in the several Counties of this Province*; also, an Act made and passed in the fourth year of His present Majesty's Reign, intituled *An Act to alter the Act for the establishment of Grammar Schools in the several Counties of this Province*, be and the same are hereby repealed; saving and reserving nevertheless to the Trustees and Directors of any Grammar Schools, all such sum or sums of money which may be due and payable to them at the time of passing this Act, under and by virtue of any of the provisions of the said last two recited Acts.

7. His Excellency the Lieutenant Governor and Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, shall be and he is hereby authorized and empowered to appoint during pleasure, and to remove as he shall see fit, three or more fit and proper persons in the several Counties of this Province, the Counties of York and Charlotte, and the City and County of Saint John excepted, to be Trustees and Directors of the Grammar Schools in each of the said Counties, except as aforesaid, and for which they shall be respectively appointed.

8. The said Trustees and Directors of the said Grammar Schools in each of the said Counties respectively, except as aforesaid, or the major part of them, shall form and constitute a Board for the management of the said Schools respectively, with full power and authority to procure and provide proper places whereon to erect suitable buildings for the said Schools in their respective Counties, and to accept and receive donations for the erection of such buildings and for the endowment of the said Schools, and to purchase and hold lands and real estate in trust and for the use of such Schools, and that they be enabled to sue and be sued, implead and be impleaded, answer and be answered unto, by the name and description of Trustees and Directors of their respective Schools.

9. The said Trustees and Directors, or the major part of

them, in each of their respective Counties, except as aforesaid, are hereby empowered to procure and retain a Master or Usher for their said respective Schools, and to make and establish bye laws, ordinances, and regulations for the government of the said Schools, and to enforce obedience to the same by expulsion or other public censure as they may judge proper, and to fix and determine the rates of tuition at the said Schools; provided always, that no such bye laws, ordinances, or regulations shall have any force or effect until they shall have received the approbation of His Excellency the Lieutenant Governor or Commander in Chief for the time being.

10. No Master or Masters, Usher or Ushers shall be employed to teach in any School or Schools now established or hereafter to be established in this Province, unless such Master or Usher shall be duly qualified and licenced as is required in and by His Majesty's Royal Instructions.

11. The said Trustees and Directors shall hold public visitations and examinations of the said Schools twice in each and every year, that is to say, on the first Monday in May and the first Monday in November.

12. The Scholars shall be taught in the said Schools English Grammar, the Latin and Greek Languages, Orthography, the use of the Globes, and the practical branches of the Mathematics, and such other useful learning as may be judged necessary; and the said Trustees and Directors for the respective Counties shall be and they are hereby authorized and empowered to nominate and send to the said Schools any number of boys not exceeding eight to any one School, to be taught gratis, and such boys shall be instructed in all the branches of education which are taught at the said Schools respectively, or such parts thereof as the said Trustees and Directors shall direct, and in the same manner as any other Scholars; and on the removal of any such boys from the said Schools respectively, the Trustees and Directors shall and may appoint and send others in their stead, so as to keep up at all times the full number of eight free Scholars in each of the said Schools; provided always, that such boys be poor orphans or children whose parents cannot afford to pay for their education.

13. The sum of one hundred pounds annually shall be included in the estimate of the ordinary expenses of the Province

for each of the following Counties, that is to say, the Counties of Northumberland, Sunbury, Westmorland, Gloucester, and Kent, and Queen's and King's Counties; which said sum of one hundred pounds shall be granted annually for the payment of the Masters thereof respectively; the same to be drawn on the certificate of the Trustees and Directors in favour of the person or persons entitled thereto.

14. No Grammar School in any of the said last mentioned Counties shall be entitled to the said sum of one hundred pounds in the next preceding Section mentioned, unless the inhabitants of the County in which such School shall be established shall have raised or subscribed, and *bona fide* to be paid, the further sum of fifty pounds in aid and support of the Master thereof.

15. Whenever the said Trustees and Directors in any of the said Counties last mentioned, shall certify to His Excellency the Lieutenant Governor or Commander in Chief for the time being, that a building suitable for a Grammar School hath been provided in such County, and that they, the said Trustees and Directors, have provided a competent Master to manage and teach the said School, and that the sum of fifty pounds hath been raised or subscribed, and to be *bona fide* paid by the inhabitants of such County to the said Trustees and Directors of such School in aid of the support and maintenance of the said Master, that then and in such case it shall be lawful for His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, to draw on the Treasury of the Province for one half of the said sum of one hundred pounds in favour of the Master or Teacher of the said School, and so to draw from time to time on the Treasury upon the like certificate, in half yearly payments for the use of such School; provided always, that all the sums of money which shall be borne upon the estimate as aforesaid from year to year for the use of such Schools, and which shall not be drawn from the Treasury of the Province pursuant to this Act, shall revert to the Provincial fund, to be appropriated by the Legislature.

16. No part of the said sum of fifty pounds to be raised by the inhabitants of any of the said last mentioned Counties in aid and support of any Grammar School within the same, shall

be borne, paid, or subscribed by the Master or Usher of such School.

17. From and after the first day of January one thousand eight hundred and thirty, no beneficed Clergyman of the Established Church, or Minister of any other sect or denomination of Christians, having the spiritual charge of any Parish or Congregation, shall be eligible, or be appointed Master or Usher of any Grammar School in any of the said last mentioned Counties.

18. All those persons who have at any time been appointed Trustees and Directors of any Grammar Schools under and by virtue of the provisions of the hereinbefore last recited Acts, shall remain and continue in office, and the rules, ordinances, regulations, and bye laws by them respectively made and passed, and which have been duly approved of for the government of any Grammar School, shall be construed and taken to be in full force and effect, and in the same manner as if the said Acts had not been repealed.

19. The said Trustees and Directors of the respective Grammar Schools for the said Counties last mentioned, shall be at all times accountable to the Legislature of the Province for their conduct and the management of the money to be vested in them by virtue and in pursuance of this Act.

20. That there be granted to the President and Directors of the Public Grammar School in the City of Saint John, the yearly sum of fifty pounds in addition to the sum of one hundred pounds now by law granted, the same to be applied to the support of the Master or Usher of the said School, and to defray the contingent expenses thereof.

21. This Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such.

5th WILLIAM 4th—CHAPTER 30.

An Act to amend the Law relating to the Public Grammar School in the City of Saint John.

Section.

1. Repeal of Section.

Section.

2. Public Examinations to be held, when.

Passed 17th March, 1835.

WHEREAS the days for holding the public examinations of

the Public Grammar School in the City of Saint John, specified in the sixth Section of an Act made and passed in the forty fifth year of the Reign of King George the Third, intituled *An Act for encouraging and extending Literature in this Province*, are found inconvenient ;—

Be it enacted, &c.—1. That the said sixth Section of the said Act be and the same is hereby repealed.

2. The President and Directors of the said Public Grammar School in the City of Saint John, shall hold public visitations and examinations of the said School twice in every year, on such days as the said President and Directors may prescribe and appoint by any bye law or regulation for that purpose to be made.

6th WILLIAM 4th—CHAPTER 10.

An Act in addition to an Act intituled *An Act for the endowment of King's College at Fredericton, in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools throughout the Province.*

Section 1.—Grammar School provisions extended to Carleton.

Passed 8th March 1836.

WHEREAS in and by the seventh Section of an Act, intituled *An Act for the endowment of King's College in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools throughout the Province*, it is enacted, that His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, be authorized and empowered to appoint during pleasure, and to remove as he shall see fit, three or more fit and proper persons in the several Counties of this Province, the Counties of York and Charlotte, and the City and County of Saint John excepted, to be Trustees and Directors of Grammar Schools in each of the said Counties, except the aforesaid, and for which they shall be respectively appointed : And whereas also in and by the thirteenth Section of the said Act it is further enacted, that the sum of one hundred pounds annually shall be included in the estimate of the ordinary expenses of the Province for each

of the following Counties, that is to say, the Counties of Northumberland, Sunbury, Westmorland, Gloucester, Kent, and Queen's and King's Counties, which said sum of one hundred pounds shall be granted annually for the payment of the Masters thereof respectively, the same to be drawn on the certificate of the Trustees and Directors in favour of the person or persons entitled thereto: And whereas it is expedient to extend the provisions of the said Sections to the new County of Carleton;—

Be it therefore enacted, &c.—1. The two said Sections of the aforesaid Act shall hereafter be construed to extend to the said County of Carleton, in like manner as if the same had been particularly mentioned therein, any thing in the said Sections to the contrary notwithstanding; subject nevertheless to all the provisions, restrictions, and limitations to which the other Counties in this Province are liable to by virtue of the said Act.

6th WILLIAM 4th—CHAPTER 54.

An Act to enable the Corporation of King's College to dispose of certain parts of their Lands.

Section.

1. What Land may be sold, and how.
2. Proceeds, how disposed of.

Section.

3. Of what Land may grant Leases.
4. Of what other Land.

Passed 16th March 1836.

WHEREAS the Chancellor, President, and Scholars of King's College at Fredericton, in the Province of New Brunswick, hold certain wilderness and uncultivated lands in the neighbourhood of Fredericton, and it would be for the benefit of the said College if a certain proportion of such lands were sold, and the proceeds thereof invested in the manner hereinafter mentioned;—

Be it enacted, &c.—1. It shall and may be lawful for the College Council of the said College from time to time as they shall judge it to be for the advantage of the said College, to sell and dispose of in fee simple such parts and portions of the said wilderness and uncultivated lands as they shall in their discretion select and allot for that purpose, for such price and upon such terms of payment as the said College Council may

agree upon; and good and valid conveyances of any land so sold may be made by the said Corporation of King's College under the Seal of the said College, any law or usage to the contrary notwithstanding; provided always, that the aggregate of any lands which may be sold and disposed of under the provisions of this Act, shall not exceed one fourth part in quantity of such wilderness and uncultivated lands; and provided also, that it shall not be lawful for the College Council to sell any of the said lands in lots to exceed one hundred acres each, and that in no case shall lots be sold adjoining to or bounded by each other; and further provided, that the sale of the said lands shall be made by public auction, thirty days previous notice of the time and place of such sale to be first given in one or more of the public Newspapers in this Province.

2. All the moneys and proceeds arising from such sales shall be put and kept out at interest by the said Corporation of King's College, upon good and sufficient landed securities, and the annual income and interest arising therefrom be applied to and for the uses and purposes of the Institution.

3. And whereas the said Chancellor, President, and Scholars hold a block of land in the town plat of Fredericton, comprising town lots from number ninety nine to number one hundred and sixteen, both inclusive, which form the whole of the block known by the number seven in the said town plat, as described in the Royal Grant of certain lots in said town plat, passed under the Great Seal of the Province of New Brunswick to Cornelius Ackerman and others, bearing date the seventh day of August in the year of our Lord one thousand seven hundred and eighty eight, and the plan to the same grant annexed; and beneficial leases of the lands comprised in the said block cannot be made without covenants for renewing such leases, and doubts exist whether any such covenants would be valid;— The said College Council shall be and they are hereby authorized and empowered to lease the said block of land in the said town plat of Fredericton, either in the whole or in such lots or parcels as the said College Council may from time to time think fit, for any term or terms not exceeding twenty one years, for and upon such rents and with such covenant or covenants for the renewal of such lease or leases as the said College Council may think for the advantage of the Institution, and

may agree upon with the person or persons who may take such leases ; and good and valid leases of any land so leased with such covenants therein may be made by the said Corporation of King's College, under the Seal of the said College, any law or usage to the contrary notwithstanding.

4. The powers given to the College Council in the next preceding Section of this Act shall extend and be construed to extend to authorize the said College Council to lease any part of the wilderness lands belonging to said College upon the same terms, reservations, and conditions as they are authorized to lease the lots contained in block number seven by any of the provisions of this Act.

8th VICTORIA—CHAPTER 111.

An Act to amend the Charter of King's College.

Section.

1. Visitor, Chancellor, and President, who to be.
2. College Council, of whom to consist. Quorum.
3. From what tests exempt.
4. Degrees in Divinity, what oaths and declaration to be taken for.

Section.

5. Who may propose alterations in Statutes, &c.
6. Professors, by whom appointed.
7. Divine Service.
8. Accounts for Assembly, by whom laid before.
9. Charter, how affected by Act.
10. Royal Assent required.

Passed 27th March 1845.

WHEREAS His Majesty King George the Fourth was graciously pleased to issue His Letters Patent, bearing date at Westminster, the fifteenth day of December, in the eighth year of His Reign, in the words following, viz :—

• Whereas the establishment of a College within our Province of New Brunswick, in North America, for the education of Youth in the principles of the Christian Religion, and for their instruction in the various branches of Science and Literature which are taught at our Universities in this Kingdom, would greatly conduce to the welfare of our said Province : And whereas humble application hath been made to us by many of our loving subjects in our said Province, that we would be pleased to grant our Royal Charter for the more perfect establishment of a College therein, and for incorporating the Members thereof for the purposes aforesaid ; Now know ye, that we, having taken the premises into our Royal consideration, and duly weighing the great utility and im-

‘ portance of such an Institution, have of our special grace,
‘ certain knowledge, and mere motion, ordained and granted,
‘ and do by these presents, for us, our heirs and successors,
‘ ordain and grant, that there shall be established at or near
‘ our Town of Fredericton, in our said Province of New Bruns-
‘ wick, from this time, one College, with the style and privi-
‘ leges of an University, as hereinafter directed, for the educa-
‘ tion and instruction of Youth and Students in Arts and Fa-
‘ culties, to continue for ever, to be called “ King’s College :”
‘ And we do hereby declare and grant that our trusty and well
‘ beloved the Right Reverend Father in God, John, Bishop of
‘ the Diocese of Nova Scotia, or the Bishop for the time being
‘ of the Diocese in which the said Town of Fredericton may
‘ be situate, in any future division or alteration of the said
‘ present Diocese of Nova Scotia, shall for us and on our be-
‘ half be the Visitor of the said College ; and that our trusty
‘ and well beloved Sir Howard Douglas, Baronet, our Lieu-
‘ tenant Governor of our said Province, or the Governor,
‘ Lieutenant Governor, or other person administering the Go-
‘ vernment of our said Province for the time being, shall be
‘ the Chancellor of our said College : And we do hereby de-
‘ clare, ordain, and grant, that there shall at all times be one
‘ President of our said College, who shall be a Clergyman in
‘ Holy Orders of the United Church of England and Ireland,
‘ and that there shall be such and so many Professors in dif-
‘ ferent Arts and Faculties, within our said College, as from
‘ time to time shall be deemed necessary or expedient, and as
‘ shall be appointed by us or by the said Chancellor of our
‘ said College on our behalf, and during our pleasure : And
‘ we do hereby grant and ordain that the Reverend George
‘ Best, Master of Arts, Archdeacon of our said Province of
‘ New Brunswick, shall be the first President of our said Col-
‘ lege, and the Archdeacon of our said Province for the time
‘ being, shall, by virtue of such his office, be at all times the
‘ President of the said College : And we do hereby for us, our
‘ heirs and successors, will, ordain, and grant, that the said
‘ Chancellor and President, and the said Professors of our said
‘ College, and all persons who shall be duly matriculated into
‘ and admitted as Scholars of our said College, and their suc-
‘ cessors for ever, shall be one distinct and separate Body

‘ Politic and Corporate, in deed and in name, by the name and
‘ style of “ The Chancellor, President, and Scholars of King’s
‘ College at Fredericton, in the Province of New Brunswick;”
‘ and that by the same name they shall have perpetual
‘ succession, and a Common Seal; and that they and their
‘ successors shall from time to time have full power to
‘ alter, renew, or change such Common Seal at their will
‘ and pleasure, and as shall be found convenient; and that by
‘ the same name they, the said Chancellor, President, and
‘ Scholars, and their successors from time to time, and at all
‘ times hereafter, shall be able and capable to have, take, and
‘ receive, purchase, acquire, hold, possess, enjoy, and maintain,
‘ to and for the use of the said College, any messuages, lands,
‘ tenements, and hereditaments, of what kind, nature, or quality
‘ soever, (situate and being within our said Province of New
‘ Brunswick) so as that the same do not exceed in yearly
‘ value the sum of fifteen thousand pounds above all charges;
‘ and moreover to take, purchase, acquire, have, hold, enjoy,
‘ receive, possess, and retain all or any goods, chattels, charita-
‘ ble or other contributions, gifts, or benefactions whatsoever:
‘ And we do hereby declare and grant that the said Chancellor,
‘ President, and Scholars, and their successors, by the same
‘ name, shall and may be able and capable in law to sue and
‘ be sued, implead and be impleaded, answer and be answered,
‘ in all or any Court or Courts of Record within our United
‘ Kingdom of Great Britain and Ireland, and our said Province
‘ of New Brunswick, and other our Dominions, in all and singu-
‘ lar actions, causes, pleas, suits, matters, and demands whatso-
‘ ever, of what nature and kind soever, in as large, ample, and
‘ beneficial manner and form as any other Body Politic and
‘ Corporate, or any other our liege subjects, being persons able
‘ and capable in law, may or can sue, implead, or answer, or
‘ be sued, impleaded, or answered in any manner whatsoever:
‘ And we do hereby declare, ordain, and grant, that there shall
‘ be within our said College or Corporation, a Council, to be
‘ called or known by the name of the College Council; And
‘ we do will and ordain, that the said Council shall consist of
‘ the Chancellor and President for the time being, and of seven
‘ of the Professors in Arts and Faculties of our said College,
‘ and that such seven Professors shall be Members of the

‘ United Church of England and Ireland, and shall previously
‘ to their admission into the said College Council, severally
‘ sign and subscribe the thirty nine Articles of Religion, as
‘ declared and set forth in the Book of Common Prayer; and in
‘ case at any time there should not be within our said College
‘ seven Professors of Arts and Faculties, being Members of the
‘ Established Church aforesaid, then our will and pleasure is,
‘ and we do hereby grant and ordain, that the said College
‘ Council shall be filled up to the requisite number of seven,
‘ exclusive of the Chancellor and President for the time being,
‘ by such persons, being Graduates of our said College, and
‘ being Members of the Established Church aforesaid, as shall
‘ for that purpose be appointed by the Chancellor for the time
‘ being of our said College, and which Members of Council
‘ shall in like manner subscribe the thirty nine Articles afore-
‘ said, previously to their admission into the said College
‘ Council: And whereas it is necessary to make provision for
‘ the completion and filling up of the said Council at the first
‘ institution of our said College, and previously to the appoint-
‘ ment of any Professors or the conferring of any Degree
‘ therein; Now we do further ordain and declare that the
‘ Chancellor of our said College for the time being shall, upon
‘ or immediately after the first institution thereof, by Warrant
‘ under his hand, nominate and appoint seven discreet and
‘ proper persons, resident within our said Province of New
‘ Brunswick, to constitute jointly with him, the said Chancellor,
‘ and the President of our said College for the time being, the
‘ first or original Council of our said College, which first or
‘ original Members of the said Council shall, in like manner,
‘ respectively subscribe the thirty nine Articles aforesaid, pre-
‘ viously to their admission to the said Council: And we do
‘ further declare and grant, that the Members of the said
‘ College Council, holding within our said College the offices of
‘ Chancellor, President, or Professor of any Art or Faculty, shall
‘ respectively hold their seats in the said Council so long as they
‘ and each of them shall retain such their offices aforesaid, and
‘ no longer; and that the Members of the said Council, not hold-
‘ ing offices in our said College, shall from time to time vacate
‘ their seats in the said Council when and so soon as there shall
‘ be an adequate number of Professors in our said College,

‘ being Members of the Established Church aforesaid, to fill up
‘ the said Council to the requisite number before mentioned;
‘ And we do hereby authorize and empower the Chancellor for
‘ the time being of our said College, to decide in each case
‘ what particular member of the said Council, not holding any
‘ such office as aforesaid, shall vacate his seat in the said Council
‘ upon the admission of any new member of Council holding
‘ any such office: And we do hereby declare and grant,
‘ that the Chancellor for the time being of our said College
‘ shall preside at all meetings of the said College Council which
‘ he may deem it proper or convenient to attend, and that in
‘ his absence the President of our said College shall preside at
‘ all such meetings, and that in the absence of the said Presi-
‘ dent the senior member of the said Council present at any
‘ such meeting shall preside thereat; and that the seniority of
‘ the members of the said Council, other than the Chancellor
‘ and President, shall be regulated according to the date of
‘ their respective appointments; provided always, that the
‘ members of the said Council, being Professors in our said
‘ College, shall in the said Council take precedence over and
‘ be considered as seniors to the members thereof not being
‘ Professors in our said College; And we do ordain and
‘ declare that no meeting of the said Council shall be or be
‘ held to be a lawful meeting thereof, unless five members at
‘ the least be present during the whole of every such meeting;
‘ and that all questions and resolutions proposed for the deci-
‘ sion of the said Council, shall be determined by the majority
‘ of the votes of the members of Council present, including the
‘ vote of the presiding member, and that in the event of an
‘ equal division of such votes, the member presiding at any
‘ such meeting shall give an additional or casting vote: And
‘ we do further declare, that if any member of the said Council
‘ shall die or resign his seat in the said Council, or shall be
‘ suspended or removed from the same, or shall, by reason of
‘ any bodily or mental infirmity, or by reason of his absence
‘ from the said Province, become incapable for three calendar
‘ months or upwards of attending the meetings of the said
‘ Council, then and in every such case, a fit and proper person
‘ shall be appointed by the said Chancellor to act as and be a
‘ member of the said Council in the place and stead of the

‘ member so dying or resigning, or so suspended or removed,
‘ or incapacitated as aforesaid; and such new member suc-
‘ ceeding to any member so suspended or incapacitated, shall
‘ vacate such his office on the removal of any such suspension,
‘ or at the termination of any such incapacity as aforesaid, of
‘ his immediate predecessor in the said Council: And we do
‘ further ordain and grant, that it shall and may be competent
‘ to and for the Chancellor for the time being of our said Col-
‘ lege, to suspend from his seat in the said Council any member
‘ thereof for any just and reasonable cause to the said Chan-
‘ cellor appearing, provided that the grounds of every such
‘ suspension shall be entered and recorded at length by the
‘ said Chancellor in the Books of the said Council, and signed
‘ by him; and every person so suspended shall thereupon cease
‘ to be a member of the said Council, unless and until he shall
‘ be restored to and re-established in such his station therein
‘ by any order to be made in the premises by us or by the said
‘ Visitor of our said College, acting in our behalf and in pur-
‘ suance of any special reference from us: And we do further
‘ declare that any member of the said Council, who, without
‘ sufficient cause to be allowed by the said Chancellor by an
‘ order entered for that purpose on the said Council Books,
‘ shall absent himself from all the meetings thereof which may
‘ be held within any six successive calendar months, shall
‘ thereon vacate such his seat in the said Council: And we do
‘ by these presents, for us, our heirs and successors, will, ordain,
‘ and grant, that the said Council of our said College shall have
‘ power and authority to frame and make statutes, rules, and
‘ ordinances touching and concerning the good government of
‘ the said College; the performance of Divine Service therein;
‘ the Studies, Lectures, Exercises, Degrees in Arts and Facul-
‘ ties, and all matters regarding the same; the residence and
‘ duties of the President of our said College; the number, resi-
‘ dence, and duties of the Professors thereof; the management
‘ of the revenues and property of the said College; the sala-
‘ ries, stipends, provisions, and emoluments of and for the
‘ President, Professors, Scholars, Officers, and Servants thereof;
‘ the number and duties of such Officers and Servants; and also
‘ touching and concerning any other matter or thing which to
‘ them shall seem good, fit, and useful for the well being and

‘ advancement of our said College, and agreeable to this our
‘ Charter; and also from time to time, by any new statutes,
‘ rules, or ordinances, to revoke, renew, augment, or alter all,
‘ every, or any of the said statutes, rules, and ordinances, as
‘ to them shall seem meet and expedient; provided always,
‘ that the said statutes, rules, and ordinances, or any of them,
‘ shall not be repugnant to the Laws and Statutes of the United
‘ Kingdom of Great Britain and Ireland, or of our said Pro-
‘ vince of New Brunswick, or to this our Charter; provided
‘ also, that the said statutes, rules, and ordinances shall be
‘ subject to the approbation of the said Visitor of the said
‘ College for the time being, and shall be forthwith transmitted
‘ to the said Visitor for that purpose; and that in case the said
‘ Visitor shall for us and on our behalf, in writing, signify his
‘ disapprobation thereof within two years of the time of their
‘ being so made and framed, the same or such part thereof as
‘ shall be so disapproved by the said Visitor, shall, from the time
‘ of such disapprobation being made known to the said Chancellor
‘ of our said College, be utterly void and of no effect, but
‘ otherwise shall be and remain in full force and virtue; pro-
‘ vided nevertheless, and we do hereby expressly save and
‘ reserve to us, our heirs and successors, the power of review-
‘ ing, confirming, or revising, by any order or orders to be by
‘ us or them made in our or their Privy Council, all or any of
‘ the decisions, sentences, or orders, so to be made as afore-
‘ said by the said Visitor for us and on our behalf, in reference
‘ to the said statutes, rules, and ordinances, or any of them :
‘ And we do further ordain and declare, that no statute, rule,
‘ or ordinance shall be framed or made by the said College
‘ Council, touching the matters aforesaid, or any of them,
‘ excepting only such as shall be proposed for the considera-
‘ tion of the said Council, by the Chancellor for the time being
‘ of our said College; And we do require and enjoin the said
‘ Chancellor thereof to consult with the President of our said
‘ College and the next senior member of the said College
‘ Council, respecting all statutes, rules, and ordinances to be
‘ proposed by him to the said Council for their consideration ;
‘ And we do hereby for us, our heirs and successors, charge
‘ and command, that the statutes, rules, and ordinances afore-
‘ said, subject to the said provisions, shall be strictly and invio-

‘ lably observed, kept, and performed from time to time, in
‘ vigour and effect, under the penalties to be thereby or therein
‘ imposed or contained : And we do further will, ordain, and
‘ grant, that the said College shall be deemed and taken to be
‘ an University, and shall have and enjoy all such and the like
‘ privileges as are enjoyed by our Universities of our United
‘ Kingdom of Great Britain and Ireland, as far as the same
‘ are capable of being had and enjoyed by virtue of these our
‘ Letters Patent ; and that the Students in the said College
‘ shall have liberty and faculty of taking the Degrees of
‘ Bachelor, Master, and Doctor in the several Arts and Facul-
‘ ties at the appointed times, and shall have liberty within
‘ themselves of performing all scholastic exercises for the
‘ conferring such Degrees, in such manner as shall be directed
‘ by the statutes, rules, and ordinances of the said College :
‘ And we do further will, ordain, and appoint, that no religious
‘ test or qualification shall be required of, or appointed for any
‘ persons admitted or matriculated as Scholars within our said
‘ College, or of persons admitted to any Degree in any Art or
‘ Faculty therein, save only that all persons admitted within
‘ our said College to any Degree in Divinity, shall make such
‘ and the same declaration and subscription, and take such
‘ and the same oaths as are required of persons admitted to
‘ any Degree of Divinity in our University of Oxford : And
‘ we do further will, direct, and ordain, that the Chancellor,
‘ President, and Professors of our said College, and all persons
‘ admitted therein to the Degree of Master of Arts, or to any
‘ Degree in Divinity, Law, or Medicine, and who from the
‘ time of such their admission to such Degree, shall pay the
‘ annual sum of twenty shillings sterling money, for and towards
‘ the support and maintenance of the said College, shall be
‘ and be deemed, taken, and reputed to be members of the
‘ Convocation of the said University, and as such members of
‘ the said Convocation, shall have, exercise, and enjoy all such
‘ and the like privileges as are enjoyed by the members of the
‘ Convocation of our University of Oxford, so far as the same
‘ are capable of being had and enjoyed by virtue of these our
‘ Letters Patent, and consistently with the provisions thereof :
‘ And we will, and by these our presents, for us, our heirs and
‘ successors, do grant and declare that these our Letters

‘ Patent, or the enrolment or exemplification thereof, shall
 ‘ and may be good, firm, valid, sufficient, and effectual in the
 ‘ law, according to the true intent and meaning of the same,
 ‘ and shall be taken, construed, and adjudged in the most
 ‘ favourable and beneficial sense for the best advantage of the
 ‘ said Chancellor, President, and Scholars of our said College,
 ‘ as well in our Courts of Record or elsewhere, and by all and
 ‘ singular Judges, Justices, Officers, Ministers, and other
 ‘ subjects whatsoever, of us, our heirs and successors, any mis-
 ‘ recital, non-recital, omission, imperfection, defect, matter,
 ‘ cause, or thing whatsoever, to the contrary thereof in any wise
 ‘ notwithstanding. In witness whereof, we have caused these
 ‘ our Letters to be made Patent. Witness ourself, at West-
 ‘ minster, the fifteenth day of December, in the eighth year of
 ‘ our Reign :’

And whereas it is deemed advisable and necessary that certain alterations be made in the said Charter for the more effectual extension of the benefits of the Institution to all denominations of Her Majesty’s subjects in the Colony, and that the said Charter may be rendered more productive of the benefits thereby intended ;—

Be it therefore enacted, &c.—1. That for and notwithstanding any thing in the said Charter contained, His Excellency the Lieutenant Governor or Administrator of the Government for the time being, shall be Visitor of the said College, in the place and stead of the Visitor named in the said Charter ; that the Chief Justice of the Supreme Court for the time being shall be Chancellor of the said College ; and that the provisions of the Charter, “ that the President of the said College shall be a Clergyman in Holy Orders of the United Church of England and Ireland,” and “ that the Archdeacon of the Province for the time being shall by virtue of such his office, be at all times the President of the College,” be annulled, and that the President in future be appointed by Her Majesty, Her Heirs and Successors, or by the Visitor on Her Majesty’s behalf.

2. The College Council shall be fifteen in number, as follows, viz :—The Chancellor, the President of the College, the Master of the Rolls, the Speaker of the Assembly, the Secretary of the Province, the Attorney General, and nine other Members to be nominated by the Visitor, with the power of

suspension in the Visitor, now vested by the said Charter in the Chancellor; and that seven members of the said Council shall at all times constitute a quorum for the dispatch of business.

3. It shall not be required that members of the said Council be Graduates of the said College, or of any other University, nor shall any religious test be appointed for or required of any members of the said Council, or of any Professor of the said College, save and except the Professor of Theology, who shall at all times be a Clergyman of the United Church of England and Ireland.

4. From and after the passing of this Act, any person taking a Degree in Divinity, shall take the oaths now prescribed by the Charter, and shall be required to name and subscribe the following and no other declaration:—

“ I do hereby solemnly profess, testify, and declare, that I
“ believe in the authenticity and Divine inspiration of the Old
“ and New Testaments, and in the Doctrine of the Holy
“ Trinity.”

5. Notwithstanding any thing in the said recited Charter contained, it shall and may be lawful for any member of the said College Council, at any meeting thereof, to propose such modifications of, and additions to the statutes, rules, and ordinances of the said College, as he may deem proper, without first consulting with or obtaining the consent of the Chancellor for the time being.

6. From and after the passing of this Act, the power of appointment to Professorships be vested in Her Majesty, Her Heirs and Successors, or in the Visitor on Her Majesty's behalf.

7. Divine Service shall at all times be performed in the said College according to the order, rites, and ceremonies of the United Church of England and Ireland.

8. The Registrar of the said College shall, within fourteen days after the meeting of the Legislature in each and every year, prepare and lay before the Assembly a full and detailed Account, duly attested, of the income and expenditure of the Institution for the previous year, together with a statement of the number and names of Professors, and the number and names of the Students.

9. The said Charter shall still be and remain in full force

and effect in all respects, except so far as the same is hereby altered and amended, and nothing herein contained shall extend or be construed to extend to affect any right of action by or against the present Corporation, or to affect any contracts or agreements made by and with the same, or to affect the right, title, power, or authority of the said Corporation, to the Corporate lands, tenements, and premises, or to the rents, duties, and liabilities arising therefrom, or from any part thereof.

10. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto had and declared.

[*This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 19th day of December 1846, and published and declared in the Province the 3rd day of February 1847.*]

1st VICTORIA—CHAPTER 20.

An Act relating to the Grammar Schools of King's and Queen's Counties.

Section.

1. What not to extend to King's and Queen's Counties.

Section.

2. Examinations of, when to be held, and how.

Passed 9th March 1838.

WHEREAS by the eleventh Section of an Act, intituled *An Act for the endowment of King's College at Fredericton, in the Province of New Brunswick, and also to make new provisions for the support of Grammar Schools throughout the Province*, it is enacted, that the said Trustees and Directors shall hold public visitations and examinations of the said Schools twice in each and every year, that is to say, on the first Monday in May and the first Monday in November: And whereas the days so appointed are found inconvenient for holding the said public visitations and examinations of the Grammar Schools of King's and Queen's Counties; for remedy whereof,—

Be it therefore enacted, &c.—1. From and after the passing of this Act, the said eleventh Section of the said above mentioned Act shall not be considered as of any force or effect, so far as the same relates to the Grammar Schools of King's and Queen's Counties.

2. From and after the passing of this Act, the Trustees and Directors of the Grammar Schools of King's and Queen's Counties shall hold public visitations and examinations of the said Grammar Schools of said Counties twice in each and every year, that is to say, on such day as they the said Trustees and Directors may appoint within one week previous to the Midsummer vacation, and on such day as they the said Trustees and Directors may appoint within one week previous to the Christmas vacation; provided always, that the said Trustees and Directors shall give due notice of such days so appointed by them as days for the visitation and examination of such Grammar Schools at least once in each and every year, such notice to be published previous to the first day of May in each and every year, in some Newspaper published in King's or Queen's County, or in failure of any Newspaper being published therein, then in some Newspaper published in the City of Saint John.

2d VICTORIA—CHAPTER 16.

An Act to authorize the President and Directors of the Public Grammar School in the City of Saint John, to grant Leases with Covenants for renewal.

Section.

1. Who may grant Leases, of what, and in what manner.

Section.

2. What rent to be reserved.

Passed 23rd March 1839.

Be it enacted, &c.—1. The President and Directors of the Public Grammar School in the City of Saint John, and their successors, shall be and they are hereby fully authorized and empowered to make and grant any lease or leases of any land now belonging, or which may hereafter belong to them, in the said City or any part or parts thereof, for such term or terms of years, and with such covenants for renewing the same at the expiration of the term, and granting a further lease or leases thereof to the lessees or their assigns, and with such other covenants, conditions, and provisos, as to them may appear expedient and for the advantage of the said Corporation; and that every such lease so to be made and granted by the said President and Directors, with covenants for renewal

therein inserted, shall be good, valid, and effectual in the law, and binding on the said Corporation, their successors and assigns.

2. Provided always, That in every such Lease so to be made and granted by the said President and Directors, or their successors, a fair adequate yearly rent shall be reserved, payable by half yearly payments to the said President and Directors, and their successors, during the continuance of the original term for which such may be granted, and any renewal or extension thereof.

3d VICTORIA—CHAPTER 10.

An Act to provide for the establishment of a Grammar School in the County of Restigouche.

Section 1.—Grammar School provisions extended to Restigouche.

Passed 25th March 1840.

WHEREAS in and by the seventh Section of an Act, intituled *An Act for the endowment of King's College, in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools throughout the Province*, it is enacted, that His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, be authorized and empowered to appoint during pleasure, and to remove as he shall see fit, three or more fit and proper persons in the several Counties in this Province, the Counties of York and Charlotte, and City and County of Saint John excepted, to be Trustees and Directors of the Grammar Schools in each of the said Counties, except the aforesaid, and for which they shall be respectively appointed: And whereas also in and by the thirteenth Section of the said Act it is further enacted, that the sum of one hundred pounds annually shall be included in the estimate of the ordinary expenses of the Province for each of the following Counties, that is to say, the Counties of Northumberland, Sunbury, Westmorland, Gloucester, Kent, and Queen's and King's Counties; which said sum of one hundred pounds shall be granted annually for the payment of the Masters thereof respectively, the same to be drawn on the certificate of the Trustees and Directors in favour of the per-

son or persons entitled thereto: And whereas it is expedient to extend the provisions of the said Sections to the new County of Restigouche;—

Be it therefore enacted, &c.—1. The two said Sections of the aforesaid Act shall hereafter be construed to extend to the said County of Restigouche in like manner as if the same had been particularly mentioned therein, any thing in the said Sections to the contrary notwithstanding, subject nevertheless to all the provisions, restrictions, and limitations to which the other Counties in this Province are liable to by virtue of the said Act.

9th VICTORIA—CHAPTER 74.

An Act to amend an Act intituled *An Act to amend the Charter of King's College.*

Section.

1. Certain Graduates, from what exempt.

Section.

2. Suspending clause.

Passed 14th April 1846.

WHEREAS in and by the fourth Section of an Act made and passed in the eighth year of the Reign of Her present Majesty, intituled *An Act to amend the Charter of King's College*, it is provided, that any person taking a Degree in Divinity shall be required to make and subscribe the following and no other declaration;—

“I do hereby solemnly profess, testify, and declare, that I
“believe in the authenticity and Divine inspiration of the Old
“and New Testaments, and in the Doctrine of the Holy
“Trinity;”—

Be it therefore enacted, &c.—1. That nothing in the said fourth Section of the said in part recited Act shall extend or be construed to extend to any Graduate in the said University being a Member of the Church of England.

2. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereto first had and declared.

[*This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 19th day of December 1846, and published and declared in the Province the 3rd day of February 1847.*]

9th VICTORIA—CHAPTER 60.

An Act in amendment of the Laws now in force relating to Grammar Schools.

Section.

1. What required to be taught in Grammar Schools.
2. What average number of pupils to attend.
3. What Register to be kept. Copy furnished to whom.

Section.

4. Schools, by whom examined, and what Report to make.
5. What Registers; &c. to be transmitted, and to whom; effect of deficiency in numbers, &c.
6. Commencement, &c. of Act.

Passed 14th April 1846.

WHEREAS it appears that the benefits derived from some of the Grammar Schools are not commensurate with the large sums of money granted for their support;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, the Scholars in the several Grammar Schools in this Province shall be taught Orthography, Reading, Writing, Arithmetic, English Grammar, Geography, English Composition, Ancient and Modern History, Natural History, Natural Philosophy, the practical branches of the Mathematics, the use of the Globes, the Latin and Greek Languages, and such other useful learning as may be found necessary.

2. In every such Grammar School there shall be an average number of fifteen Scholars over ten years of age in daily attendance, and the following branches of Education shall be taught in the said Schools respectively: English Grammar, English Composition, Ancient and Modern History, Natural History, Natural Philosophy, Arithmetic, Geography, the use of the Globes, Latin, Greek, and the practical branches of Mathematics.

3. It shall be the duty of the Master of every such Grammar School to keep a true and correct Register of the names and ages of the several Scholars, and daily to mark therein the presence or absence of each Scholar, as the case may be, and to furnish the Trustees and Directors of such Grammar School, semi-annually, with a true copy of the same, and also with a Return pointing out the average number in daily attendance, with the several branches of Education taught to each Scholar.

4. It shall be the duty of the Trustees and Directors of the several Grammar Schools to examine and inspect the same at least once in every six months, and to make a Report of

every such examination; which Report shall set forth the Master's name, age, religious profession, and whether married or single—the books and apparatus used in School—the branches of Education actually taught—the size, fitness, and condition of the building, and suitableness of the furniture—the nature and extent of the religious instruction—the mode of discipline—the manner of teaching the several branches of Education—the general state and condition of the School, with such other information as may be necessary and proper.

5. It shall further be the duty of the said Trustees and Directors, and they are hereby required to transmit semi-annually to the Office of the Provincial Secretary, all such Registers, Returns, and Reports for the information of the Government, and for the inspection and examination of the General Assembly; and if it shall at any time appear from such Registers, Returns, and Reports, that any Grammar School is in any respect deficient and short of the hereinbefore prescribed requirements, then and in such case it shall and may be lawful for the Lieutenant Governor or person administering the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, to reduce the annual allowance for such Grammar School in their discretion, so that the same shall in no case be less than fifty pounds per annum to any one School.

6. Every part of this Act shall, after the passing thereof, be and continue in full force and effect, any other law, usage, or custom to the contrary notwithstanding.

10th VICTORIA—CHAPTER 8.

An Act to provide for the establishment of a Grammar School in the County of Albert.

Section 1.—Grammar School provisions extended to Albert.

Passed 12th March 1847.

WHEREAS in and by the seventh Section of an Act, intituled *An Act for the endowment of King's College at Fredericton, in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools throughout the Province*, it is enacted, that His Excellency the

Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, be authorized and empowered to appoint during pleasure, and to remove as he shall see fit, three or more fit and proper persons in the several Counties in this Province, the Counties of York and Charlotte, and City and County of Saint John excepted, to be Trustees and Directors of the Grammar Schools in each of the said Counties, except the aforesaid, and for which they shall be respectively appointed: And whereas also in and by the thirteenth Section of the said Act it is further enacted, that the sum of one hundred pounds annually shall be included in the estimate of the ordinary expenses of the Province for each of the following Counties, that is to say, the Counties of Northumberland, Sunbury, Westmorland, Gloucester, Kent, and Queen's and King's Counties, which said sum of one hundred pounds shall be granted annually for the payment of the Masters thereof respectively, the same to be drawn on the Certificate of the Trustees and Directors in favour of the person or persons entitled thereto: And whereas it is expedient to extend the provisions of the said Sections to the new County of Albert;—

Be it therefore enacted, &c.—1. The two said Sections of the aforesaid Act shall hereafter be construed to extend to the said County of Albert, in like manner as if the same had been particularly mentioned therein, any thing in the said Sections to the contrary notwithstanding; subject nevertheless to all the provisions, restrictions, and limitations to which the other Counties in this Province are liable to by virtue of the said Act.

13th VICTORIA—CHAPTER 21.

An Act to provide for the establishment of a Grammar School in the County of Victoria.

Section 1.—Grammar School provisions extended to Victoria.

Passed 26th April 1860.

WHEREAS in and by the seventh Section of an Act, intituled *An Act for the endowment of King's College at Fredericton, in the Province of New Brunswick, and also to make new provisions for the establishment and support of Grammar Schools*

throughout the Province, it is enacted, that His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of His Majesty's Council, be authorized and empowered to appoint during pleasure, and to remove as he shall see fit, three or more fit and proper persons in the several Counties in this Province, the Counties of York and Charlotte, and City and County of Saint John excepted, to be Trustees and Directors of the Grammar Schools in each of the said Counties, except as aforesaid, and for which they shall be respectively appointed: And whereas also in and by the thirteenth Section of the said Act it is further enacted, that the sum of one hundred pounds annually shall be included in the estimate of the ordinary expenses of the Province for each of the following Counties, that is to say, the Counties of Northumberland, Sunbury, Westmorland, Gloucester, Kent, and Queen's and King's Counties, which said sum of one hundred pounds shall be granted annually for the payment of the Masters thereof respectively, the same to be drawn on the certificate of the Trustees and Directors in favour of the person or persons entitled thereto: And whereas it is expedient to extend the provisions of the said Sections to the new County of Victoria;—

Be it therefore enacted, &c.—1. The said two Sections of the aforesaid Act shall hereafter be construed to extend to the said County of Victoria, in like manner as if the same had been particularly mentioned therein, any thing in the said Sections to the contrary notwithstanding; subject nevertheless to all the provisions and limitations which the other Counties in this Province are liable by virtue of that Act.

13th VICTORIA—CHAPTER 62.

An Act to incorporate “The New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province,” and to regulate and provide for the same.

Section.

1. Society incorporated, and first General Meeting.
2. Repealed.
3. Premiums, when to be offered, and to what amount.

Section.

4. Bounty, when forfeited.
5. Annual Shows.
6. Penalty, in what cases.
7. Bounds, what not to include.
8. Limitation.

Passed 26th April 1850.

WHEREAS James Robb, Robert Chestnut, Robert D. James, Robert Jardine, James Brown, Calvin L. Hatheway, William Foshay, Allen C. Evanson, the Honorable William Crane, William M'Leod, Francis Ferguson, Dugald Stewart, Charles Perley, Thomas Gilbert, James S. Beek, John A. Beckwith, Joseph Gaynor, Thomas R. Barker, William H. Odell, Frederick W. Hatheway, William Watts, Senior, the Honorable Lemuel A. Wilmot, David S. Kerr, George Todd, Constantine Connelly, John T. Smith, James Taylor, James A. Maclauchlan, Henry Fisher, and numerous other inhabitants of the Province, have lately formed themselves into a Society, called "The New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province," which Society is intended to improve the condition of the above important branches by all practical and effective means that may be available for the purpose: And whereas it is deemed advisable to obtain an act of Incorporation for the more efficient working of the said Society;—

Be it therefore enacted, &c.—1. That James Robb, Robert Chestnut, Robert D. James, Robert Jardine, James Brown, Calvin L. Hatheway, William Foshay, Allen C. Evanson, the Honorable William Crane, William M'Leod, Francis Ferguson, Dugald Stewart, Charles Perley, Thomas Gilbert, James S. Beek, John A. Beckwith, Joseph Gaynor, Thomas R. Barker, William H. Odell, Frederick W. Hatheway, William Watts, Senior, the Honorable Lemuel A. Wilmot, David S. Kerr, George Todd, Constantine Connelly, John T. Smith, James Taylor, James A. Maclauchlan, Henry Fisher, their associates and successors, be and they are hereby erected into a Body Corporate, under the name of "The New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province," and shall have and enjoy all the powers made incident to Corporations by the fifth Section of an Act of the General Assembly of the Province made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to prescribe certain general regulations in respect to Corporations*; provided always, that the first meeting of the said Society, under and by virtue of this Act, shall on due notice thereof be held on the

first Wednesday in July in the year of our Lord one thousand eight hundred and fifty ; and provided also, that the persons who are now office bearers of the Society shall continue to act for the periods for which they have been appointed, or until others be chosen in their place agreeably to the laws and regulations of the said Society.

2. Repealed by 14th Vic. cap. 8. See *post.* page 217.

3. If the said Society shall receive the said allowance or any part thereof from the Public Treasury, it shall offer annually by way of premiums, or shall apply otherwise at its discretion, for the encouragement of the objects of the said Society, a sum not less than the amount actually received out of the Public Treasury, and it shall also transmit to the Office of the Provincial Secretary, on or before the first Thursday in January annually, a statement of its proceedings in relation to the expenditure of such moneys, specifying the nature of the encouragement proposed or given by the said Society, and the objects for which its premiums have been offered and paid, and to whom they were awarded and given, and shall accompany the same with such general observations concerning the state of Agriculture, Home Manufactures, and Commerce throughout the Province, as may be deemed important and useful.

4. If the said Society shall neglect in any year to comply with the foregoing provisions, it shall forfeit its claims to the Legislative bounty for the year next succeeding.

5. The said Society may by its officers define and fix bounds of sufficient extent for holding of an annual show and fair, or other exhibition for carrying out the objects of the said Society, in such place as the said officers may select and appoint, with convenient passage ways to and about the same, on the days for holding the said show and fair, or other exhibition as aforesaid, within which bounds no person shall be permitted to enter or pass, unless in conformity with the regulations of the said Society.

6. If any person shall, contrary to the regulations of the said Society, and after notice thereof, enter or pass within the bounds so fixed, he shall forfeit a sum not exceeding ten shillings, to be recovered before any Justice of the Peace who shall have jurisdiction thereof ; and all fines so recovered shall

be paid over by the said Justice of the Peace to the Treasurer of the said Society, towards the funds of the said Society.

7. Provided always, That nothing in this Act contained shall authorize the said Society to occupy or include within the bounds which it may fix for the purpose aforesaid, the land of any person without his consent, or to occupy any public street or highway in such a manner as to obstruct the public use thereof.

8. This Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty two.

14th VICTORIA—CHAPTER 8.

An Act to alter and amend an Act intituled *An Act to incorporate the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province, and to regulate and provide for the same.*

Section.

1. Repeal of Section.
2. For what sum and on what conditions
Warrant may issue.

Section.

3. Statement of proceeds, when to be made.
4. Limitation.

Passed 28th March 1851.

WHEREAS it is deemed expedient to make the Grant allowed by the above mentioned Act to the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province, to the extent of two hundred pounds, on similar terms as to County Agricultural Societies, and to alter the time for transmitting the proceedings of the said Society to the Provincial Secretary from the first Thursday in January to the second Wednesday in April following;—

Be it therefore enacted, &c.—1. That the second Section of the above mentioned Act be and the same is hereby repealed.

2. Whenever the said Society shall make it appear by Certificate under the hand of the Treasurer of such Society, that a sum not less than twenty five pounds has been actually subscribed and paid to the said Treasurer by the members of such Society, and the President of the said Society shall make application, enclosing the said Certificate to the Lieutenant

Governor or Administrator of the Government for the time being, for aid in supporting the said Society, it shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of the Executive Council, to issue his Warrant to the Treasurer of the Province in favour of the Treasurer of the said Society, for treble the amount that shall have been so subscribed and paid as aforesaid; provided always, that the annual sum to be granted to the said Society shall not exceed the sum of two hundred pounds currency.

3. The time appointed by the third Section of the above mentioned Act for transmitting to the Office of the Provincial Secretary a statement of the proceedings of the said Society, in relation to the expenditure of the moneys therein specified, be and the same is hereby altered from the first Thursday in January to the second Wednesday in April following, in each year.

4. This Act shall continue and be in force until the expiration of the Act to which this is an amendment and no longer.

15th VICTORIA—CHAPTER 8.

An Act to continue an Act to incorporate the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province, and to regulate and provide for the same; also an Act to alter and amend the said Act.

Section 1.—Continuance of Acts.

Passed 18th February 1852.

Be it enacted, &c.—1. An Act made and passed in the thirteenth year of the Reign of Her present Majesty, Queen Victoria, intituled *An Act to incorporate the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province, and to regulate and provide for the same*; also, an Act made and passed in the fourteenth year of the same Reign, intituled *An Act to alter and amend an Act, intituled 'An Act to incorporate the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province, and to*

regulate and provide for the same,' be and the same are hereby continued and declared to be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty five.

10th VICTORIA—CHAPTER 32.

An Act to encourage the raising and dressing of Hemp.

Section.

1. Bounty.
2. Affidavits of Claimant and Witness.
3. Affidavits, where filed and Schedule read.

Section.

4. Warrants, how drawn.
5. Bounty, how limited.
6. False swearing, what deemed.

Passed 23rd March 1847.

WHEREAS it is believed that the climate and alluvial lands of this Province are favourable to the growth and manufacture of Hemp, and it is expedient to encourage the cultivation of that article by granting a Bounty on the same;—

Be it therefore enacted, &c.—1. For the encouragement of the growth of Hemp in this Province, there shall be applied, distributed, and paid in Bounties yearly, a sum not exceeding one thousand pounds per annum out of the moneys now remaining in or hereafter to be in the Treasury, at and after the rate of ten shillings for every hundred weight of Hemp to be raised within this Province, in the year of our Lord one thousand eight hundred and forty seven, and in every subsequent year during the space of five years, and which shall be broken and properly prepared for Market, to be paid to the grower or other person who breaks and properly prepares such Hemp for Market.

2. The grower or person claiming, and who shall be entitled to the said Bounty, in order to entitle himself or herself thereto, shall first take and subscribe the following oath, the same to be set down in writing, that is to say:—

‘ I, A. B. of in the County of do swear that
‘ hundreds weight of Hemp, broken and properly pre-
‘ pared for Market, and of a good merchantable quality, were
‘ really and truly raised on the land occupied by me in the Parish
‘ of in the County of and that the same is actually
‘ the crop of the year and that no other person, to my
‘ knowledge or belief, has applied for, or received any Bounty
‘ on the same. (Signed) A. B.

‘ Sworn before me at this day of 18 ,
 ‘ and I believe the statements therein set forth.

‘ C. D. Justice of the Peace.’

And some credible witness shall also make oath in writing, subscribed by his name, and annexed to the said affidavit, in the form following, that is to say:—

‘ I, E. F. of in the County of do swear that I
 ‘ was present at on the day of and did see
 ‘ the Hemp mentioned in the annexed affidavit, duly and fairly
 ‘ weighed, that it was previously broken and properly prepared
 ‘ for Market, and that I verily believe it was grown in all
 ‘ respects as set forth in the said affidavit.

(Signed)

E. F.

‘ Sworn before me at this day of

‘ C. D. Justice of the Peace.’

Which said affidavits shall be made before any Justice of the Peace of the County where such applicant shall reside, who is hereby authorized to administer the same.

3. Every such affidavit shall be filed in the office of the Clerk of the Peace of the proper County, at least six days before some General Session of the Peace of the same, and it shall be the duty of such Clerk of the Peace to arrange the several applications in a tabular form, containing the names and residences of the parties applicant, the names of the Magistrates before whom the affidavits had been made, the quantity of, and the Parish in which the Hemp is stated to have been raised, with the several amounts of Bounty claimed; and shall submit the same, together with the said affidavits, unto the Justices assembled at such General Sessions of the Peace; and the said Justices shall thereupon order and direct that the said table, together with the said affidavits, shall be publicly read in the said Court, in the presence and hearing of the Grand Jury, and shall determine and settle all such claims, and shall certify in one general Schedule all such claims as they, the said Justices, shall then allow, and shall within six days after the rising of such Court transmit such Schedule to the Office of the Secretary of this Province.

4. It shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty’s

Executive Council, to draw by Warrant on the Treasury for the gross amount of the Bounties as set forth in the said Schedule, together with the sum of five per centum on the same, in favour of the Clerk of the Peace, such sum of five per centum to be by him retained for his trouble, and the residue to be by him forthwith paid and distributed to the respective claimants.

5. No person or persons shall be entitled to any Bounty under the provisions of this Act, unless the quantity of Hemp broken and properly prepared for Market as aforesaid, and and for which he, she, or they shall claim the Bounty, shall amount to one hundred weight, and in settling claims no Bounty shall be allowed by the Justices for any fractional portion less than a quarter of a hundred weight.

6. Any person or persons who shall be guilty of false swearing in any matter or thing connected with this Act, with intent or design to defraud the Treasury, such person or persons so offending shall be subject to all pains and penalties of the Law for wilful and corrupt perjury.

14th VICTORIA—CHAPTER 1.

An Act to incorporate the European and North American Railway Company.

Section.

1. Corporation constituted.
2. Capital; number of shares; how paid in, and what kind of estate.
3. When may commence to construct Railway; what route; plan, where deposited.
4. Branches and Steamboats, what may supply.
5. When interest may be paid on moneys paid in.
6. Share, what evidence of.
7. Share, when not to be transferred.
8. Share on trust, Company not bound for execution of.
9. Calls, when to be paid, and meaning of "Shareholder."
10. Calls, who and when to make.
11. Calls, interest when to be paid on.
12. Advances, when and on what terms received.
13. Defaulters, when may be sued.
14. Declaration in suits on calls.
15. What proof sufficient.
16. What evidence of being Shareholder.
17. Shares in arrear, how forfeited.
18. What notice to be given.
19. Forfeiture of shares, when to be confirmed.
20. When to be sold,

Section.

21. Purchased shares, what evidence of.
22. Sale of shares, how limited.
23. Effect of payment of arrears before sale.
24. What Crown Lands may be entered on, &c.
25. What may be granted for Railway route.
26. Bridges, what may be erected.
27. Taxes, from what exempt.
28. Legislature, how may interfere with Corporation.
29. What other Corporations may join to construct Railways.
30. When Lands, &c. may revert to the Crown.
31. Extent of corporate powers to enter and take lands, &c.; arbitration and assessment, by whom, &c.
32. Transfer of lands, agreements for, how confirmed.
33. Commissioners for settling disputes as to lands, &c. by whom appointed.
34. What other agreements for transfers of land valid.
35. What lands adjacent may be entered, &c. and how damages ascertained, &c.
36. Fences on Railway, how erected and maintained.
37. Bells, where to be placed and rung.

Section.

38. Boards, what to be put up at crossings of roads; what other precautions.
39. Board of Directors, how chosen, and how business conducted by.
40. Votes, how given in all cases.
41. When and where first meeting of shareholders.
42. Extraordinary meetings of Directors, how called. What officers may appoint, &c. and what laws make, &c.
43. Annual meeting, and appointment of Directors.
44. Auditors, how appointed, &c.
45. Auditor's duties.
46. Officers entrusted with money, what security to give.
47. When to render account.
48. On failure, how to be compelled.
49. On refusal to deliver accounts, &c. what proceedings to compel.
50. What other remedy.
51. What account to be laid before the Legislature.
52. Returns of traffic, to whom to be made.
53. Extraordinary meetings, when may call.
54. How advertised.

Section.

55. Tolls and rates established. Statement of expenses, &c. when and where filed, &c.
56. When Corporation bound to have Railroad in good repair. Lien for tolls.
57. Repealed.
58. Mails, &c. how forwarded.
59. To what remuneration entitled.
60. Nomination of arbitrators and umpires.
61. Repealed.
62. Tolls, how altered.
63. Electric Telegraphs may be laid down on lines, by whom and when.
64. Profits, how often to be divided.
65. What receipts of certain parties good.
66. What proportion of profits reserved.
67. When dividends not to be paid.
68. Debts of Company, what alone answerable for.
69. Limitation of actions.
70. Malicious injuries to Railways, &c. what punishment.
71. When to have powers of Commissioners of Roads.
72. Connection with other Railways.
73. When this Act may be void.
74. Commencement of same.

Schedule.

Passed 15th March 1851.

WHEREAS it is contemplated, under concurrent Charters, to construct a continuous line of Railway from Bangor, in the State of Maine, through the Provinces of New Brunswick and Nova Scotia, to Halifax, or some other Port on the Eastern Coast of Nova Scotia, under the name of "The European and North American Railway Company," thereby affording an uninterrupted route of land communication to all parts of North America, from some Atlantic Port in the most direct line of emigration, traffic, and travel between the Old and the New World: And whereas in furtherance of this great object, the Legislature of the State of Maine has passed an Act to authorize the construction of such Railway through their own Territory, by a Corporation under the aforesaid name: And whereas it is advisable for the more efficient and economical construction and working of the said Railway, that provision should be made in the concurrent Charters of the said Provinces and State, to enable the respective Corporations or Companies, by deed, contract, or agreement, if they deem it expedient, to establish a uniform system of management and direction over the whole proposed line: And whereas it is the duty of this Province to grant every facility and encouragement to such enterprising persons as may be desirous and willing to make and maintain such a Railway throughout this Province, by

granting to them an Act of Incorporation, with the privilege of establishing Branch Lines and Steam Vessels in connexion with the said Railway, both on the Gulf of Saint Lawrence and the Bay of Fundy, as the Company may deem desirable;—

Be it therefore enacted, &c.—1. The Honorable Ward Chipman, the Honorable Charles Simonds, Speaker of the House of Assembly, the Honorable E. B. Chandler, Rear Admiral the Honorable William Fitzwilliam Owen, the Honorable J. R. Partelow, Provincial Secretary, the Honorable Amos E. Botsford, the Honorable John Robertson, the Honorable R. L. Hazen, the Honorable Alexander Rankin, M.P.P., J. Montgomery, M.P.P., William Crane, M.P.P., the Honorable John A. Street, Attorney General, M.P.P., William J. Ritchie, M.P.P., John Hamilton Gray, M.P.P., Daniel Hanington, M.P.P., Bliss Botsford, M.P.P., James Taylor, M.P.P., Robert B. Chapman, M.P.P., Matthew M'Leod, M.P.P., George Hayward, M.P.P., George Ryan, M.P.P., Henry W. Purdy, M.P.P., William Scoullar, M.P.P., Robert D. Wilmot, M.P.P., William H. Steves, M.P.P., Reuben Stiles, M.P.P., William H. Needham, M.P.P., S. L. Tilley, M.P.P., George L. Hatheway, M.P.P., John M. Johnson, M.P.P., William Porter, M.P.P., John Robinson, M.P.P., Robert Jardine, George Botsford, President of the Central Bank of New Brunswick, James M'Farlane, Thomas G. Hatheway, William Wright, D. J. M'Laughlin, President of the Commercial Bank at the City of Saint John, James W. Chandler, Nehemiah Marks, Frederick A. Wiggins, Joseph Salter, Enoch Stiles, George Calhoun, John Smith, John C. Littlehale, James Roach, James Secord, Alleyn C. Evanson, William Coates, Moses Jones, Silas Crane Charters, John Robb, John Hickman, Junior, Christopher Boultenhouse, Charles F. Allison, George Oulton, William H. Buckerfield, Peter Etter, Charles F. Prescott, Allan Otty, Henry Chubb, William R. M. Burtis, John V. Thurgar, George E. Fenety, T. W. Anglin, Edward Allison, Thomas E. Millidge, President of the Bank of New Brunswick, Charles Brown, George Sutherland, John Wesley Weldon, Stephen Binney, Alexander Wright, and such other persons as shall from time to time become proprietors of the shares in the Company hereby established, their successors and assigns, shall be, and they are hereby declared, ordained, and constituted to be a Corpo-

ration, Body Politic and Corporate, by the name of "The European and North American Railway Company," and shall by that name have perpetual succession, and a Common Seal; and shall and may by the same name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all Courts and places whatsoever; and shall also have power and authority to purchase, hold, and enjoy lands, tenements, and hereditaments, for them and their successors and assigns, for making the Railway, and for settlers on the line of the said Railway, and generally for the purposes of carrying the provisions of this Act into effect; and also that they the said Company shall from time to time, and at all times, have full power and authority to constitute, make, ordain, and establish such bye laws, regulations, and ordinances as may be deemed necessary for the good rule and government of the said Company; provided that such bye laws, regulations, and ordinances as may be deemed necessary, be not contradictory or repugnant to the laws of this Province; and provided also, that no bye laws, regulations, and ordinances made under and by virtue of the power and authority of this Act, shall be of any force or effect until one calendar month after a true copy of such bye laws, regulations, and ordinances, certified under the hand of the President of the said Company, shall have been laid before the Lieutenant Governor or Administrator of the Government in this Province for the time being, for approval or disapproval, unless the Lieutenant Governor or Administrator of the Government shall before such period signify his approbation thereof.

2. The capital stock of the Company hereby established shall be fifteen hundred thousand pounds, the whole to be paid in current money of this Province; the whole amount of the said capital stock to be divided into sixty thousand shares, of twenty five pounds each; and the said Corporation, if necessary, shall have power to extend the said capital stock to a sum or sums not exceeding two millions of pounds of like current money, and shall have power to increase the number of shares accordingly; which original shares and increased stock shall be vested in the persons hereinbefore named, and such other persons as may take shares in the said Company, their successors or assigns; and upon taking such shares, they

shall deposit in such Bank or Banks in the British North American Colonies, or elsewhere, as the Directors of the said Company shall from time to time appoint for that purpose, the sum of five shillings per share current money aforesaid ; and the remaining amount of such shares shall be called in as the work progresses, in such parts and amount per share as the Directors of the said Company may deem necessary ; provided always, that two pounds ten shillings per share shall be the greatest amount per share of any one call which the said Directors may make on the shareholders, and two months at least shall be the interval between successive calls ; and thirty days previous notice of payment being required for any one call shall be given in the Royal Gazette, at Fredericton, and one or more of the Newspapers published in the City of Saint John ; provided also, that the whole amount of such calls shall not exceed, in any one year, one third part of the amount subscribed ; and on demand of the holder of any share, the Company shall cause a receipt or certificate of the proprietorship of such share to be delivered to such shareholder, and the same may be according to the form in the Schedule A to this Act annexed, or to the like effect, or in such other form as the said Company may by their bye laws prescribe ; and every of the said shares shall be deemed personal estate, and transferable as such, and shall not be deemed or taken to be of the nature of real property ; and every such share shall entitle the holder thereof to a proportionate part of the profits and dividends of the said Company ; provided also, that the money so to be raised as aforesaid, shall be laid out in the making, completing, and maintaining the said Railway, and other the purposes therewith connected, mentioned in this Act, and in payment of the legal and other expenses incurred in and about the incorporating and establishing the said Company, and to no other use or purpose whatsoever.

3. So soon as one hundred thousand pounds of the capital stock of the said Company shall have been subscribed, and the deposit of five shillings per share shall have been actually paid as aforesaid, and not before, it shall be lawful for the said Company, and they are hereby authorized and empowered, by themselves, their deputies, agents, officers, and workmen, to make, construct, and finally complete, alter, and keep in re-

pair, a Railway, with one or more sets of rails or tracks, with all suitable bridges, archways, turn-outs, culverts, drains, and all other necessary appendages, and to erect such wharves, moles, jetties, piers, docks, harbours, landings, aboideaux, dikes, buildings, depots, and warehouses, either at the termini or on the line of the said Railway, and to purchase and acquire such stationary or locomotive steam engines, and carriages, wagons, floats, and other machinery and contrivances, and real or personal property, as may be necessary for the making and maintaining the said Railway, and for the transport of passengers and merchandise thereon, and for other purposes of this Act ; and may hold and possess the land over which the said Railway is to pass, and such adjoining land as may be required ; which Railway is to run from some point or place from the Eastern Boundary of this Province, in the County of Westmorland, so as best to connect with a Railway to be constructed from the City of Halifax, or some other Port on the Eastern Coast of the Province of Nova Scotia, on the Atlantic Ocean, over the most practicable route through this Province of New Brunswick, so as best to connect with a Railway to be constructed from the City of Bangor, in the United States of America, to the Eastern part of the State of Maine, under a Charter from the same State, with a like name as is used in this Act, as the Directors of this Company, in the exercise of their best judgment and discretion, shall judge most favourable and best calculated to promote the public convenience, and carry into effect the intentions and purposes of this Act ; provided always, that a Map or Plan of the route determined upon shall be deposited in the Office of the Secretary of this Province.

4. The said Company shall and may, if they deem it expedient, make Branch Railways to every or any part of the Province, and manage such Branch Railways, and procure and own such steam boats or vessels as may be necessary to ply in connexion with the said Railway, in the waters of any part of the Gulf of Saint Lawrence, or in the Bay of Fundy, or in the waters contiguous to either of them ; and for that purpose shall exercise and possess all the powers, privileges, and authorities necessary for the management of the same in as full and ample a manner as they are hereby authorized to do with respect to the said Railway.

5. It shall be lawful for the Directors of the said Company, in their discretion, until the said Railway shall be completed and opened to the public, to pay interest at any rate not exceeding six pounds per centum per annum on all sums called up in respect of the shares from the respective days on which the same shall be paid, such interest to accrue and be paid at such times and places as the said Directors shall appoint for that purpose; provided always, that no interest shall accrue to the proprietor of any share upon which any call shall be in arrear in respect of such shares or any other share to be holden by the same proprietor during the period while such call shall remain unpaid.

6. The certificate of the proprietorship of any share in the said Company shall be admitted in all Courts as *prima facie* evidence of the title of any shareholder, his executors, administrators, successors, or assigns, to the share therein specified; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

7. No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he or she shall have paid all calls for the time being due on every share held by him or her.

8. The said Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the Books of the said Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders, shall from time to time be a sufficient discharge to the said Company for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the said Company have had notice of such trusts, and the said Company shall not be bound to see to the application of the money paid upon such receipts.

9. The several persons who have or shall hereafter subscribe any money towards the said undertaking, or their legal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the Directors of the said Company, at such times

and places as shall be appointed by the said Directors; and with respect to the provisions in this Act contained for enforcing the payment of the calls, the word "shareholder" shall extend to and include the personal representatives of such shareholder.

10. It shall be lawful for the Directors of the said Company from time to time to make such calls of money upon the respective shareholders in respect of the amount of capital respectively subscribed or owing by them, as they shall deem necessary, provided that thirty days notice at the least be given of each call as aforesaid, and that no call exceed the prescribed amount aforesaid, and that successive calls be not made at less than the prescribed interval aforesaid, or a greater amount called in, in any one year, than the prescribed amount aforesaid; and every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the said Company or the Directors thereof.

11. If before or on the day appointed for payment any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law, that is to say, six per centum per annum from the day appointed for the payment thereof to the time of the actual payment.

12. It shall be lawful for the said Company, if they think fit, to receive from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares, in respect of which such advance shall be made, the Company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the said Company may agree upon.

13. If at the time appointed by the said Company, or the Directors thereof, for the payment of any call, any shareholder shall fail to pay the amount of such call, it shall be lawful for the said Company to sue such shareholder for the amount thereof in any Court of Law or Equity having competent juris-

diction, and to recover the same with lawful interest from the day on which such call was payable.

14. In an action or suit to be brought by the said Company against any shareholder to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for said Company to declare that the defendant is the holder of one share or more in the said Company, stating the number of shares, and is indebted to the said Company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more, stating the number and amount of each of such calls whereby an action hath accrued to the said Company by virtue of this Act.

15. On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was the holder of one share or more in the said Company, and that such call was in fact made, and such notice thereof given as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such call, or any other matter whatsoever; and thereupon the said Company shall be entitled to recover what shall be due upon such call and interest thereon, unless it shall appear either that any such call exceeds the prescribed amount aforesaid, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed as aforesaid.

16. The production of the Register of Shareholders shall be *prima facie* evidence of such defendant being a shareholder, and of the number and amount of his shares.

17. If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the Directors of the said Company at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable, forfeited, and that whether the said Company have sued for the amount of such call or not.

18. Before declaring any shares forfeited, the Directors of said Company shall cause notice of such intention to be left or transmitted by Post to the usual or last place of abode of the person appearing by the Register of Shareholders to be the

proprietor of such share ; and if the holder of any such share be beyond the limits of this Province, or if his usual or last place of abode be not known to the said Directors, by reason of its being imperfectly described in the Shareholders' Address Book, or otherwise ; or if the interest in any share shall be known by the said Directors to have become transmitted otherwise than by transfer, and so the address of the parties to whom the said share or shares may for the time being belong shall not be known to the said Directors, the said Directors shall give public notice of such intention in the Royal Gazette, at Fredericton, and also in one or more of the Newspapers published in the City of Saint John, and the several notices aforesaid shall be given ninety days at least before the said Directors shall make such declaration of forfeiture.

19. The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share, until such declaration shall have been confirmed at the next general meeting of the said Company to be held after such notice of intention to make such declaration of forfeiture shall have been given ; and it shall be lawful for the said Company to confirm such forfeiture at any such meeting, and by an order at such meeting, or any subsequent general meeting, to direct the share or shares so forfeited to be sold, or otherwise disposed of.

20. After such confirmation as aforesaid, it shall be lawful for the said Directors to sell the forfeited share by public auction ; and if there be more than one forfeited share, then either separately or together, as to them shall seem fit ; and any shareholder may purchase any forfeited share so sold as aforesaid.

21. An affidavit by some credible person not interested in the matter, sworn before any Justice of the Peace, or before any Commissioner for taking affidavits in the Supreme Court, or other person qualified by law to take affidavits, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated ; and such affidavit, and the receipt of the Treasurer of the said Company for the price of such share, shall

constitute a good title to such share, and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

22. The said Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest and the expenses attending such sale and declaration of forfeiture, and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, with the proof thereof and certificate of proprietorship to the purchaser, the surplus shall, on demand, be paid to the defaulters.

23. If payment of such arrears of calls, and interest and expenses, be made before any share or shares so forfeited and vested in the said Company shall have been sold by public auction as aforesaid, such share or shares shall revert to the party or parties to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

24. His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, be and is hereby authorized and empowered to grant unto the said Company, and the said Company are hereby invested with the right, by their agents, servants, and workmen, to enter and go in and upon the Crown Lands lying in the route or line of the contemplated Railway, for the purpose of making examinations, surveys, and other necessary arrangements, and also for the construction and repair of the said Railway and the Branches connected with the said Railway, its several station houses and depots, and for fuel for the use of the engines, station houses, and depots, belonging thereto and the said Branches, to dig for, take, remove, and use any earth, gravel, stone, timber, wood, or other matter under, on, or from the

Crown Land contiguous to the Railway, free from any duties or charges therefor.

25. It shall and may be lawful for the said Lieutenant Governor or Administrator of the Government for the time being, by and with the consent aforesaid, and he is hereby fully authorized and empowered to grant unto the said Company, without pecuniary consideration, from the vacant Crown Lands, a belt or strip of such part of the Crown Lands as the said contemplated Railway and the said Branches may pass over and through, the said belt or strip to extend two hundred feet on both sides of the track of the Railway measured from the centre thereof, and also additional pieces or parcels of land severally not exceeding five hundred feet in length and three hundred feet in breadth, measured along and at right angles to the line of the said belt or strip of land at such points and distances from each other not less than five miles, as may be necessary, and the said Company may elect and determine.

26. If the said Railroad shall in the course thereof cross any tide waters, navigable rivers, or streams, the said Company are hereby authorized and empowered to erect, for the sole and exclusive travel on the said Railroad, a Bridge across each of the said rivers or streams, or across any such tide waters, provided such Bridge or Bridges shall be so constructed as not unnecessarily to obstruct or impede the navigation of said waters.

27. No County, Parish, City, or other local tax or assessment shall be levied or assessed on or payable by the said Corporation, or any of their lands, tenements, personal property, privileges, or franchises, or on the stock thereof owned by the respective shareholders therein, or on the income derivable therefrom.

28. The Legislature of this Province shall at all times hereafter have the right to enquire into the doings of the said Corporation, and into the manner in which the privileges and franchises herein and hereby granted, may have been used and employed by the said Corporation, and to correct and prevent all abuses of the same, and to pass any laws imposing fines and penalties upon said Corporation, which may be necessary more effectually to compel a compliance with the provisions, liabilities, and duties herein set forth and enjoined, but not to im-

pose any other or further duties, liabilities, or obligations; and that this Charter shall not be revoked, annulled, altered, or amended, without the consent of the Corporation, or during the present Session of the Legislature, or limited or restrained except by due process of law.

29. It shall be lawful for the said Corporation, if they shall at any time or times hereafter deem it expedient so to do, to join and unite with any Body Politic, or Corporation, or Company in the Province of Nova Scotia, or State of Maine, or to be formed therein for the purpose of constructing the whole or any portion of the said continuous line of Railway from the City of Bangor aforesaid, through this Province of New Brunswick, to the Eastern Coast of Nova Scotia, as set out in the third Section of this Act; and also to enter into such contracts, arrangements, or agreements, by Deeds or Writings, with all or any of such Bodies Politic, Corporations, or Companies, as may be considered mutually beneficial, and as will conduce to the accomplishment of the desired end, and to the effectual carrying into operation the objects and intentions of this Act, and of such Bodies Politic, Corporations, and Companies, and as may tend to the mutually beneficial management of the affairs of said continuous Railway during its erection and after its completion, and the just and equitable distribution and appropriation of the proceeds and earnings thereof; and all such contracts, arrangements, agreements, deeds, and writings, shall be valid and binding within this Province, as well on this Corporation as on such Bodies Politic, Corporations, and Companies, being parties thereto respectively, and shall be duly enforced in the Courts of this Province, as if the said Bodies Politic, Corporations, and Companies had been duly incorporated herein.

30. Provided always, That if the said contemplated Railway shall not be completed and in full operation within the space of ten years from the time this Act shall come into operation, all and every the said grants of land, and the rights and privileges conferred by this Act, shall be utterly null and void, and the land and privileges shall revert to and revest in Her Majesty, as fully as if no grant had been made or rights and privileges conferred.

31. The said Company shall be and are hereby invested with

all the powers, privileges, and immunities which are or may be necessary to carry into effect the intentions and objects of this Act ; and for this purpose the said Company, their successors, deputies, agents, and assistants, shall have the right to enter and go into and upon the lands and grounds of all and every description lying in the said route and general direction as aforesaid, for the purpose of making surveys, examinations, or other necessary arrangements for fixing the site of the said Railway ; and it shall and may be lawful for the said Company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing, and convenient operation of the said Railway, and shall also have the right to take, remove, and use, for the necessary construction and repair of said Railway and appurtenances, any earth, gravel, stone, timber, or other materials on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such surveys, examinations, or other arrangements may be made, or through which the said Railway may be explored, laid out, made, worked, or constructed, or on which materials and other things shall be laid for the purposes of the said Railway ; provided always, that the said land so taken shall not exceed six rods in width, except where greater width is necessary for the purpose of excavation or embankment ; and where the said Railway shall pass through any woods, lands, or forests, the said Company shall have the right to fell or remove any trees standing thereon to the distance of six rods from either side of the said Railway, which by their liabilities to be blown down, or from their natural falling, might obstruct or impair said Railway ; provided always, that in all cases the said Company shall pay for such lands or estate so taken or used (in case the owner thereof demand it) such price as the said Company and the owner or respective owners thereof may mutually agree upon ; and in case the said parties should not agree, then it shall be lawful for the said Company or the said parties to apply to three or more of the Commissioners to be appointed in manner hereinafter provided, who shall, after giving at least twenty days notice in writing to the said Company and parties, examine the site of the said Railway ; and in case the said

Railway shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such Commissioners or a majority of them; provided always, that not less than three Commissioners shall concur in such assessment: provided nevertheless, that the said Commissioners in assessing the said damages, are authorized and empowered, and shall take into consideration the indirect as well as the direct advantages which may accrue to the owner or respective owners, as such owner or respective owners, by the construction of such Railway, as by the enhancement in value of the land by the passage of the Railway in regard to the increased facilities of access to the different stations and termini of the said Railway, in diminution of the damages; and in all cases where the Commissioners shall assess damages to be paid to the owner or owners of any land over which the said Railroad may be laid out, the Commissioners so assessing shall lay the said assessment before the next general meeting of the said Company under the authority of this Act, who are hereby required to pay the amount set forth in the said assessment into the hands of the persons for whom such damages may have been assessed, within twenty one days next after such general meeting of the said Company, together with the reasonable costs and charges of the said Commissioners in assessing such damages; and in default of such payment it shall and may be lawful for the said Commissioners, or either of them, in case of the absence or death of the others, at the instance of the said party or parties to whom such damages are payable, by warrant under the hands and seals of the said Commissioners, or one of them (in case aforesaid) to levy the same with costs by distress and sale of the goods and chattels of the said Company; provided always, that no claim for damages shall be allowed by such Commissioners, unless the same shall have been made in writing and submitted to the said Company within one year from the time of taking such land or other property; provided also, that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within this Province, or to authorize the said Company to enter upon or take possession of any such lands without the previous permission of the Executive Government of the Province.

32. And whereas divers and many persons, being the owners and proprietors of or interested in lands through which the line or route of the said Railway may pass, have by deeds or writings under their hands and seals, after reciting that—‘Whereas at
‘a Convention held at Portland in the State of Maine, for the
‘purpose of devising means to insure the construction of a
‘Railroad to extend from Portland aforesaid, in a continuous
‘land route through the Province of New Brunswick, to a suitable point or terminus on the Eastern Coast of the Province
‘of Nova Scotia, and to be called “The European and North
‘American Rail Road,” John A. Poor, Esquire, of Portland,
‘the Honorable Anson G. Chandler, of Calais, the Honorable
‘Elijah L. Hamlin, of Bangor, the Honorable James B. Uniacke,
‘of Halifax, Robert B. Dickie, Esquire, of Amherst, Robert
‘Jardine, Esquire, of Saint John, and George Botsford, Esquire,
‘of Fredericton, were appointed an Executive Committee to
‘carry out the object of the said Convention, and to obtain a
‘Charter or concurrent Charters from the Legislatures of
‘Maine, New Brunswick, and Nova Scotia, to incorporate a
‘Company or Companies for that purpose:’ Then in consideration that the said Committee did take upon themselves the aforesaid duty, and procure as aforesaid a Charter or concurrent Charters, the subscribers feeling a deep interest in the erection of the said Railroad, did each for himself thereby covenant and agree to and with the said Committee, that such Company when formed, or any persons in their employment might, for the purposes of such Railroad, enter upon any lands belonging to either of them, and appropriate therefrom a sufficient width of way for such road over such lands, not exceeding six rods in width, without any claim for compensation or damages on either of their parts, except in cases where such road or width of way requires the removal of any buildings; and they further severally consented each for himself, that an Act of Assembly might be passed, to give full effect to the licence and agreement aforesaid, and for vesting such width of way in such Company for the purposes of said Road: And whereas other parties have executed or may hereafter execute other deeds, covenants, agreements, writings, or documents to the like purport and effect, or for carrying out the same objects or intentions;—All and every such deeds,

covenants, agreements, writings, or documents already executed, or which shall hereafter be executed, shall be binding in law on each and every of the said parties thereto respectively, and each and every of them, their heirs and assigns, to take effect from the day when the same shall be respectively signed by the respective parties thereto, and be binding on such parties, their heirs and assigns, from the day of such signing of the same respectively, as if made and entered into with this Company after the passing of this Act, and of the organization of the said Company themselves; and all the lands, rights, privileges, and immunities mentioned and referred to in said deeds, covenants, agreements, writings, or documents respectively, which may be required, taken, or used by the said Company, for the purposes of the said Railway, shall by operation of law vest absolutely in said Company, and shall be to all intents and purposes as valid and effectual for absolutely conveying and transferring said lands, and the right, title, and interest of said parties respectively, their heirs and assigns, therein or thereto, as if they had respectively signed, sealed, and delivered to the said Company good, valid, and effectual conveyances and assurances therefor, and for the rights, privileges, and immunities granted, mentioned, or intended to be granted by such deeds, writings, covenants, agreements, or documents respectively, without registration or further act, deed, matter, or thing being done or performed.

33. When and so soon as the same may be deemed necessary, the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, shall appoint not less than five persons to be Commissioners for ascertaining and settling all disputes or difficulties, with reference to the payment for land or materials taken or used by the said Company under the thirty first, thirty fourth, and thirty fifth Sections of this Act, or damages occasioned thereby; which said Commissioners shall be appointed during pleasure; and in case of vacancy by refusal to act, resignation, death, removal, incapacity, or absence from the Province, appointments shall be forthwith made as aforesaid for filling such vacancies, and said Commissioners shall be sworn to the faithful and impartial discharge of their duties before any Clerk of the Peace for any

County in this Province, and the Clerk so administering such oath shall forthwith transmit a certificate of such oath having been duly administered, to the Office of the Secretary of the Province.

34. When the said Company shall take any land or estate of any Body Corporate, aggregate or sole, guardians, committees, executors, administrators, or other trustees whatsoever, held for or on behalf of those whom they represent, whether corporations, infants, idiots, lunatics, feme-coverts, persons deceased or beyond seas, or other person or persons whatsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements, and sales of the said corporations, guardians, committees, executors, administrators, or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor; and it shall be lawful for them respectively to agree and settle with the said Company for damages, if any, by reason of taking such land or estate aforesaid, and in case of disagreement, such damage to be ascertained and settled as provided by the thirty first Section of this Act.

35. The said Company, their superintendents, engineers, agents, and workmen, may enter upon the land adjoining the said Railway, and from thence take and carry away any timber, stone, gravel, sand, and earth, or materials necessary for the construction of the said Railway; and in case of any slip happening or being apprehended to any cutting, embankment, or other work belonging to the said Railway, the said agents and workmen shall at all times hereafter have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose; provided always, that such works shall be as little injurious to the said adjoining land as the nature of the operations will admit of, and shall be executed with all possible dispatch, in all which cases the damage incurred, if the parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in the thirty first Section of this Act.

36. The said Company, at their own proper costs and

charges, shall erect and maintain on each side of the said Railway, sufficient fences wherever the same may be necessary, in order to protect the public, or wherever any cleared or cultivated land occurs on the line of the said Railway; and for neglect or failure to erect and maintain such necessary fences, the said Company shall be liable to be indicted at any Court of Oyer and Terminer or General Sessions of the County where such fences shall be insufficient, and to be fined in such sum as shall be then and there adjudged; and such fine shall be expended for the erection or repair of said fences, and for compensation of individual damage, as the case may be; and it shall and may be lawful for the Justices of the said Court of Oyer and Terminer or General Sessions, to make such order for levying the said fine on the property of the said Company, or otherwise, as to them shall seem most proper to the exigencies of the case, which said fine shall be exclusive of any claim for damages which any party may sustain by any such neglect or failure as aforesaid.

37. The said Company shall cause a bell of at least thirty five pounds in weight, to be placed on each locomotive engine passing upon the said road, and the said bell shall be rung at the distance of at least eighty rods from the place where such road crosses any railroad, turnpike, highway, statute labour or private road, upon the same line with the Railroad, and shall be kept ringing until the engine shall have crossed such railroad, turnpike, highway, statute labour or private road, and every train of cars moved by steam power shall be provided with suitable breaks, and one trusty and skilful breakman to every two cars in said train.

38. Wherever the said Railway or any of its branches shall cross, or shall hereafter cross any railroad, highway, turnpike road, statute labour or private road for carriages of any description within this Province, the said Company shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each railway, highway, statute labour or private road, where it is crossed by the Railroad upon the same level therewith, the said posts and boards to be of such height as shall be easily seen by travellers without obstructing the travel, and on each side of said boards the following inscription shall be printed in plain legible letters of at

least the length of nine inches, "Railroad crossings, look out for the Engine when the bell rings!!" Provided always, that it shall be lawful, if the said Company shall deem it more conducive to the public safety, for the said Company, at their own expense, to carry such turnpike or highway, statute labour or private road, over or under such railway, by means of a bridge or archway, in lieu of crossing the same on the level, and shall have power to raise or lower such turnpike, statute labour or private road, so as the safe and convenient use thereof be not obstructed; and the said Company shall constantly maintain in good repair all bridges, with the abutments and embankments which they may construct for conducting the Railroad over any turnpike, highway, statute labour or private road, over said Railroad; and when the said Railway shall approach any such turnpike, highway, statute labour or private road, so as to be inconvenient in the construction or building of said Railroad, or in the discretion of the Directors of the said Company, dangerous to persons passing on such turnpike, highway, statute labour or private road, it shall be lawful for the said Company to alter and change the line or course of such turnpike, highway, statute labour or private road, so as to obviate any such inconvenience, difficulty, or danger, doing as little injury to such turnpike, highway, statute labour or private road, as may be.

39. The immediate government and management of the affairs of the said Company shall be vested in seven, nine, or thirteen Directors, as the said Company may by bye law from time to time fix and determine, who shall be proprietors of at least forty shares each, and who shall be chosen by the shareholders of the said Company in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places; not less than three or five Directors, as the said Company shall by bye law from time to time fix and determine, shall constitute a Board for the transaction of business, of which the President shall always be one, except in case of sickness or necessary absence, in which case the Directors present may choose one of their number as Chairman in his stead; the President shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before them, the President shall have the casting vote.

40. The number of votes which each shareholder shall be entitled to on every occasion when in conformity to the provisions of this Act the votes of the shareholders are to be given, shall be in the following proportions, that is to say, each share one vote; and all shareholders may vote by proxy if they shall see fit, provided each proxy do produce from his constituent whom he shall represent, or for whom he shall vote, an appointment in the form set forth in the Schedule (B) to this Act annexed, or to the like effect; and whatever question of election of public officers or other matters or things shall be proposed, discussed, or considered in any public meeting of the said Company under the authority of this Act, shall be determined and decided by the majority of votes and proxies then and there present; provided always, that such proxy shall have been registered in a book to be kept for that purpose at least forty eight hours before the meeting at which such proxy shall claim to vote; provided also, that neither the President nor any Director of the Company for the time being, shall be allowed to vote as proxy, and that the same person shall not vote as proxy for any number of persons who together shall be proprietors of more than two hundred shares.

41. Whenever one hundred thousand pounds of the said capital stock shall have been subscribed and the deposits paid as aforesaid, the first general meeting of the shareholders shall take place in the City of Saint John, and such meeting shall be called by Daniel J. McLaughlin, President of the Commercial Bank above named, or in case of his death, absence, neglect, or refusal, by any two of the said Company, to be called by notice in the Royal Gazette at Fredericton, and in one or more of the Newspapers published in Saint John, thirty days previous to such meeting, in order to organize the said Company, make bye laws, and to choose the Directors thereof, who shall continue in office until re-elected, or others chosen and appointed in their stead, at any meeting to be held under the authority of this Act; the shareholders present or appearing by proxy shall choose the Directors of the said Company by a majority of votes, and the Directors so chosen shall choose out of their number one who shall be President of the said Company; and in case of the death, resignation, removal, disqualification by sale of stock, or incompetency of

any Director, the remaining Directors, if they think proper so to do, may elect in his place some other shareholder duly qualified to be a Director, and the shareholder so elected to fill up any such vacancy, shall continue in office as a Director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

42. The said Directors shall have the power of calling extraordinary meetings of the said Company, when they may consider the same expedient or necessary, and of nominating and appointing all and every the officers and engineers and other persons connected with the said Railway, at such salaries or rates of remuneration as to the said Directors shall seem proper, subject to the bye laws, rules, and regulations of the said Company; and the shareholders shall have the power from time to time to alter and amend, or to make such new rules, bye laws, and regulations, for the good government of the said Company, and of the said Railway, and of the works and property hereinbefore mentioned, and for the well governing of the engineers, workmen, and other persons employed by the said Company, as to the major part of the said shareholders at the annual meeting of the said Company shall seem meet; which said rules, bye laws, and regulations, being put into writing under the Common Seal of the said Company, shall if not disapproved of by the Lieutenant Governor or Administrator of the Government in this Province for the time being, as hereinbefore provided, be published in the Royal Gazette at Fredericton, and also in one or more of the Newspapers published in the City of Saint John, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law to justify all persons who shall act under the same.

43. The said shareholders shall meet annually at the City of Saint John, on the first Tuesday in September in each year, or at such other time or place in this Province in each year as may from time to time be fixed and determined by any bye laws of said Company; at which meeting the shareholders present personally or by proxy, may either continue in office the Directors before appointed, or any number of them, or may elect a new body of Directors to supply the places of those not continued in office; provided always, that the omission to meet

shall work no forfeiture, but the shareholders may be afterwards called together for that purpose by the Directors of the said Company for the time being.

44. The said Company at the first general meeting for the choice of Directors shall elect two Auditors in like manner as is provided for the election of Directors; and at the annual general meeting of the Company in each year thereafter, the Company shall in like manner elect an Auditor to supply the place of the Auditor then retiring from office according to the provision hereinafter contained; and every Auditor so elected, being neither removed or disqualified, nor having resigned, shall continue to be an Auditor until another be elected in his stead; and one of the two Auditors first elected (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the annual general meeting in each year; but the Auditor so going out shall be immediately re-eligible, and after any such re-election shall, with respect to the going out of office by rotation, be deemed a new Auditor; and if any vacancy take place among the Auditors in the course of the current year, the vacancy shall be filled by the shareholders at a special meeting; provided always, that every Auditor shall have at least one share of stock in the said Company, but shall not hold any other office in the same, or be in any other manner interested in its concerns except as a shareholder.

45. The Directors of the Company shall deliver to such Auditors the half yearly or other periodical accounts and balance sheet, at least fourteen days before the annual general meeting or before any special or periodical meeting at which the same are required to be produced to the shareholders; and it shall be the duty of the Auditors to receive and examine such accounts; and it shall be lawful for the Auditors to employ such accountants and other persons as they may think proper, at the expense of the Company; and they shall either make a special report on the said accounts, or simply confirm the same; and such report or confirmation shall be read, together with the Report of the Directors, at every annual or half yearly or special meeting at which the accounts of the Company shall be presented.

46. Before any person entrusted with the custody or control

of moneys, whether Treasurer, Collector, or other officer of the Company, shall enter upon his office, the Directors shall take sufficient security from him for the faithful execution of his office.

47. Every officer employed by the Company shall from time to time, when required by the Directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand, of all moneys received by him on behalf of the Company; and such account shall state how, and to whom, and for what purpose such moneys shall have been disposed of; and together therewith, such officers shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the Directors, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of such accounts.

48. If an officer of the Company shall fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same, which are in his possession or power, or to pay the balance due by him when required, or if for three days after being required, he fail to deliver up to the Directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power, relating to the execution of his office or belonging to the Company, then on complaint thereof being made to a Justice of the Peace, such Justice shall summon such officer to appear before two or more Justices at a time and place to be set forth in the summons, to answer such charge; and upon appearance of such officer, or in his absence, upon proof that the summons was personally served upon him, or left at his last known place of abode, the Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear either upon confession of such officer, or upon evidence, or upon inspection of the account, that any moneys of the Company are in the hands of such officer, or owing by him to the Company, the Justices may order such officer to pay the same; and if he fail to pay the amount, it shall be lawful for such Justices to grant a Warrant to levy the same by distress, or in default thereof to commit the offender to gaol,

there to remain without bail for a period not exceeding two months unless the same be sooner paid.

49. If any such officer shall refuse to make out an account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power, belonging to the Company, the Justices may lawfully commit such officer to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the Company; provided always, that if any Director or other person acting on behalf of the Company, shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the Justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before two such Justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty four hours before bringing him before some Justice, and it shall be lawful for the Justice before whom such officer may be brought, either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two Justices at a time and place to be named in the order, unless such officer give bail to the satisfaction of the Justice for his appearance before the Justices, to answer the complaint of the Company.

50. No such proceeding against or dealing with any officer as aforesaid, shall deprive the Company of any remedy which they might otherwise have against such officer or any surety of such officer.

51. The said Company shall annually submit to the Legislature, within the first fifteen days after the opening of each Session, a detailed and particular account, attested upon oath of the Treasurer and two Directors, of the moneys received and expended by the Company under and by virtue of this Act, with a statement of the amount of tonnage and of passengers that have been conveyed along the said road.

52. The Lieutenant Governor in Council may order and direct the said Company, and whereupon it shall be their duty to make up and deliver to the Provincial Secretary, Returns, according to a form to be from time to time prescribed by the Lieutenant Governor in Council, of the aggregate traffic in passengers, according to their several classes, and of the aggregate traffic in cattle and goods respectively, on the said Railway, as well as of all accidents which have occurred thereon attended with personal injury, and also a table of all tolls, rates, and charges, from time to time levied on each class of passengers, and on cattle and goods, conveyed on the said Railway.

53. It shall be lawful for any number of shareholders holding in the aggregate five hundred shares, by writing under their hands, at any time to require the said Directors to call an extraordinary meeting of the said Company, and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the said Company, or given to at least three Directors, or left at their last or usual place of abode; and forthwith upon the receipt of such requisition the said Directors shall convene a meeting of the shareholders; and if for thirty days after such notice the Directors fail to call such meeting, the shareholders aforesaid, qualified as aforesaid, may call such meeting, by giving thirty days public notice thereof in the Gazette and Newspapers hereinbefore in this Act mentioned.

54. Thirty days public notice at the least, of all meetings, whether general or extraordinary, shall be given by advertisement in the Gazette and Newspapers hereinbefore in this Act mentioned, which shall specify the place, the day, and hour of meeting; and every notice of an extraordinary meeting shall specify the purpose for which the meeting is called.

55. A toll be and is hereby granted for the sole benefit of the said Company on all passengers and property of all descriptions which may be conveyed or transported upon such Railway, any of its branches, or in the steamboats or vessels connected therewith as aforesaid, at such rates per mile as may be established from time to time by the Directors of the said Company; the transportation of persons and property, the construction of cars and carriages, the weight of loads, and all other matters and things in relation to the use of the said Rail-

way and its branches, shall be in conformity to such rules, regulations, and provisions, as the said Directors shall from time to time prescribe and direct; and such Railway and its branches may be used by any person or persons who may comply with such rules and regulations; provided always, that if after the completing the said Railway, the rates, tolls, or dues that may be established by the said Company, under and by virtue of this Act, shall be found excessive, it shall and may be lawful for the Legislature to reduce the said rates, tolls, or dues, so as the same shall not produce to the said Company a greater rate of clear net annual profits, divisible upon the subscribed and paid up capital stock of the said Company, than fifteen pounds annually for every one hundred pounds of such capital; and in order that the true state of the said Company shall be known, it shall be the duty of the President and Directors thereof to file in the Office of the Secretary of the Province, for the information of the Legislature, at the expiration of seven years after the said Railway shall have been completed as aforesaid, a just and true statement and account of the moneys by them disbursed and laid out in making and completing the said Railway in manner aforesaid; and also the amount of tolls and revenues of the said Railway, and of the annual expenditure and disbursements in maintaining and keeping up the same during the said seven years; the said several accounts and statements to be signed by the President and Treasurer of the said Company, and by such President and Treasurer attested to on oath before any one of Her Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the said President and Directors of the said Company, once in each and every year after the expiration of the said seven years, to file in the said Office of the Secretary of the said Province, for the information of the Legislature, a like statement and account, verified on oath by the President and Treasurer as aforesaid.

56. The said Corporation, after they shall commence the receiving of tolls, shall be bound at all times to have their Railroad in good repair, and a sufficient number of suitable engines, carriages, and other vehicles, for the transportation of persons and articles, and be obliged to receive at all proper times and places, and convey the same, when the appropriate

tolls therefor shall be paid and tendered, and a lien is hereby created upon all articles transported for said tolls.

57. Repealed by 16 Vic. cap. 2. *See post. page 258.*

58. It shall be lawful for the Postmaster General or his chief Deputy, or the duly authorized authorities with reference to the Post Office in this Province, by notice in writing under his hand or under the hand of such Deputy or authorized authority as aforesaid, delivered to the said Company, to require that the Mails or Post Letter Bags shall from and after the day to be named in such notice (being not less than twenty eight days from the delivery thereof) be conveyed and forwarded by the said Company on their Railway either by the ordinary trains of carriages or by special trains as need may be, at such hours or times in the day or night, as the Postmaster General or his said Deputy shall direct, together with the guards appointed and employed by the Postmaster General or his said Deputy, in charge thereof, and any other officers of the Post Office ; and thereupon the said Company shall from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on the said Railway for the conveyance of such Mails and Post Letter Bags, to the satisfaction of the Postmaster General or his said Deputy, and receive and take up, carry and convey by such ordinary or special train of carriages or otherwise, as need may be, all such Mails or Post Letter Bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the Post Office, and also to receive, take up, carry, and convey, in and upon the carriage or carriages carrying such Mails or Post Letter Bags, the guards in charge thereof, and any other officer of the Post Office, and shall receive, take up, deliver, and leave such Mails or Post Letter Bags, guards, and officers, at such places in the line of such Railway, on such days and such hours, or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, and times of arrival, as the Postmaster General or his said Deputy shall in that behalf from time to time order or direct ; provided always, that the rate of speed required shall in no case exceed the maximum rate of speed prescribed by the Directors of the said Company for the conveyance of

passengers by their first class train, nor shall the Company be responsible for the safe custody or delivery of any Mail Bags so sent.

59. The said Company shall be entitled to such reasonable remuneration, to be paid by the Postmaster General or his Deputy for the conveyance of such Mails, Post Letter Bags, Mail guards, and other officers of the Post Office, in manner required by such Postmaster General, his Deputy, or by such authorized authority of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed upon between the Postmaster General or such authorized authority and the said Company; or in case of difference of opinion between them, the same shall be referred to the award of two persons, one to be named by the Postmaster General, or his Deputy, or such authorized authority, and the other by the said Company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first named persons, previously to their entering upon the enquiry; and the said award, or umpirage, as the case may be, shall be binding and conclusive on the said parties and their respective successors and assigns.

60. In all references to be made under the authority of this Act, the Postmaster General, his Deputy, or authorized authority, or the said Company, as the case may be, shall nominate his or their arbitrators within fourteen days after notice from the other party, or in default, it shall be lawful for the arbitrator appointed by the party giving notice, to name the other arbitrator, and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire, and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first named arbitrators, who shall in like manner proceed to make his award within twenty eight days, or in default be superseded, and so *toties quoties*.

61. Repealed by 15 Vic. cap. 41. See *post.* page 254.

62. The Directors of the said Company shall be and they are hereby authorized from time to time to alter or vary the tolls to be taken upon the said Railroad or its branches, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect to all passengers, and of all goods, chattels, or carriages of the same description, and conveyed or propelled by a like carriage or engine passing only over the same portion of the line of Railway under the same circumstances; and no reduction or advance in any such toll shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the Railway.

63. The said Company, on being required so to do by Her Majesty's Government, shall be bound to allow any person or persons duly authorized by Her Majesty's Government, with servants and workmen, at all reasonable times to enter into and upon the lands of the said Company, and to establish and lay down upon such lands adjoining the line of the said Railway or any of its branches, a line of Electrical Telegraph for Her Majesty's Service, and to give to him and them every reasonable facility for laying down the same and for using the same for the purpose of receiving and sending Messages on Her Majesty's Service, subject to such reasonable remuneration to the Company as may be agreed upon between the Company and Her Majesty's Government; provided always, that subject to a prior right of use thereof for the purposes of Her Majesty, such Telegraph may be used by the Company for the purposes of the Railway, upon such terms as may be agreed upon between the parties, or in the event of differences, as may be settled by arbitration, in like manner as is provided for in the fiftieth and fifty first Sections of this Act for fixing the compensation or remuneration to this Company for carrying Mails.

64. The Directors of the said Company shall make half-yearly dividends of tolls, income, and profits arising to the said Company, first deducting thereout the annual costs, charges, and expenses of the said Company, as well of the repairs of the works belonging to them, as for the salaries and allowances of the several officers and servants, and for such other

purposes connected with the said Company as may be deemed proper by the said Directors, consistent with the bye laws, rules, and regulations of the said Company.

65. If any money be payable from the said Company to any shareholder or other person being a minor, idiot, or lunatic, the receipt of the guardian of such minor, or the receipt of the committee of such lunatic, shall be a sufficient discharge to the said Company for the same.

66. Before apportioning the profits to be divided among the shareholders, the said Directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing, and improving the works connected with the said Railway or its branches, or any part of the said undertaking, and may divide the balance among the shareholders.

67. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

68. The joint stock or property of the said Company shall alone be responsible for the debts and engagements of the said Company; and no person or persons who shall or may have dealings with the said Company shall under any pretence whatsoever have recourse against the separate property of any of the individual shareholders of the said Company, or against their person or persons, further than may be necessary for the faithful application of the funds of the said Company; provided also, that no shareholder of the said Company shall be liable for or charged with the payment of any debt or demand due from the said Company beyond the extent of his share in the capital of the said Company not then paid up.

69. No suit or action at law or equity shall be brought or prosecuted by any person or persons for any act, matter, or thing done under the authority of this Act, unless such suit or action shall be commenced within six months next after the offence shall have been committed, or cause of action accrued; and the defendant or defendants in such suit or action may plead the general issue, and give this Act and the special matter in evidence under the said plea, and that the same was done in pursuance and by the authority of this Act.

70. If any person or persons shall wilfully and maliciously, or wantonly, and to the prejudice of the undertaking, break, injure, or destroy any of the works to be made by virtue of this Act, or obstruct the passage of any carriage on said Railroad, or in any way spoil, injure, or destroy such Railroad, or any part thereof, or any thing belonging thereto, or any materials or implements to be employed in the construction or for the use of the said Railroad, every such person or persons shall be adjudged guilty of felony ; and every person so offending shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned in the Provincial Penitentiary for a term not exceeding four years, which punishment shall be in addition to any civil or other remedy for such offence.

71. This Company shall have all the powers and authorities which are or may be given by any Act or Acts of the General Assembly of this Province to Commissioners of Roads for the purpose of removing any obstruction, or for selling or disposing of any articles left on said Railroad.

72. The Legislature of this Province may authorize other Companies to connect their Railroads with the Railroad of this Company, at any points on the route of said Railroad, and this Company may connect their Railroad with any other Railroad existing or to be constructed within this Province.

73. The said Company, to entitle themselves to the privileges, benefits, and advantages to them granted in this Act, shall and they are hereby required to make and complete the said Railway within ten years from the passing of this Act, and if the same shall not be so made and completed within the period before mentioned, so as to be used for the conveyance and carriage of passengers, goods, chattels, wares, and merchandise thereon, then this Act and every matter and thing therein contained shall cease and be utterly null and void.

74. This Act shall come into operation and be in force from and after the first day of June next ensuing.

SCHEDULE.

(A)

FORM OF CERTIFICATE OF SHARE.

The European and North American Railway Company.

Number ———

This is to certify that A. B. of is proprietor of the Share (or Shares) Number of the European and North American Railway Company, subject to the regulations of the said Company, and upon which Shares respectively the sum of has been paid. Given under the Common Seal of the said Company the day of in the year of our Lord one thousand eight hundred and .

(B)

FORM OF PROXY.

I, A. B. of do hereby nominate, constitute, and appoint C. D. of to be my proxy, in my name and in my absence to vote or give any assent or to dissent from any business, matter, or thing relative to the European and North American Railway Company, in such manner as he the said C. D. shall think proper and for the benefit of the said Company. In witness whereof I, the said A. B. have hereunto set my hand (or if a Corporation say, the Common Seal of the Corporation) the day of one thousand eight hundred and .

A. B.

15th VICTORIA—CHAPTER 41.

An Act to amend an Act to incorporate the European and North American Railway Company.

Section.

1. Amendment of Section.
2. Repeal of and substitution of another Section.
3. Electric Telegraphs along Railways, how used.

Section.

4. What use of Railway conceded to Halifax Railway.
5. Construction of this Act and other Railway Acts of this line.

Passed 7th April 1852.

WHEREAS the Act passed in the fourteenth year of the Reign of Her present Majesty, intituled *An Act to incorporate the European and North American Railway Company*, requires to be amended in certain particulars ;—

*Be it therefore enacted, &c. as follows:—*1. The thirty eighth Section of the aforesaid Act of Incorporation shall be and the same is hereby amended by the following addition thereto:—**Provided** always, that the Lieutenant Governor or Administrator of the Government for the time being, or any public officer by him appointed for that purpose, may direct the said Railway Company to make alterations in crossings which the increase of traffic on the highways, turnpike, or other roads whatsoever, arising from that on the Railway, may render necessary, although at the outset a level crossing might be allowed without danger; and the alteration so directed shall forthwith be made by the Company.

2. The sixty first Section of the said Act of Incorporation shall be and the same is hereby repealed; and in lieu thereof, it is enacted as follows:—The Directors of the said Railway Company shall be bound to provide such conveyance for the Officers or Soldiers of Her Majesty's Forces of the Line, Ordnance Corps, Marines, Militia, or Police Forces, at such time or times, (whether the same shall be the usual hours of starting trains or not) as shall be required or appointed by any Officer duly authorized for that purpose, and with the whole resources of the Company, at fares not exceeding two pence sterling per mile for each commissioned Officer proceeding on duty, such Officer being entitled to conveyance in a first class carriage; not exceeding one penny sterling per mile for each Soldier, Marine, or Private of the Militia or Police Force, and also for each wife, widow, or child above twelve years of age, of a Soldier, entitled by Act of Parliament or by competent authority to be sent to their destination at the public expense; children under three years of age so entitled to be taken free of charge; and children of three years of age and upwards, but under twelve years of age, so entitled, being taken at half price of an adult; such Soldiers, Marines, and Privates of the Militia and Police Force, and their wives, widows, and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided that every Officer conveyed shall be entitled to take with him one hundred weight of personal luggage without extra charge; and every Soldier, Marine,

Private, Wife, or Widow, shall be entitled to take with him or her half a hundred weight of personal luggage without extra charge; all the excess of the above weights of personal luggage being paid for at the rate of not more than one half penny per pound; and all public baggage, stores, arms, ammunitions, and other necessary things, (except gunpowder and other combustible matters, which the Company shall only be bound to convey at such prices and upon such conditions as may from time to time be contracted for between the proper authorities and the Company) shall be conveyed at charges not exceeding two pence sterling per ton per mile, the assistance of the military or others being given in loading and unloading such goods.

3. In the event of a line of Electric Telegraph being established along the line of the Railway, either by the said Railway Company or by any other Company, partnership, person or persons, otherwise than exclusively for Her Majesty's Service, or exclusively for the purposes of the Railway, or jointly for both, the rate of such Electric Telegraph for the purpose of receiving and sending Messages, shall, subject to the prior right of use thereof for the service of Her Majesty, and for the purposes of the Company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said Railway Company, be open for the sending and receiving of Messages by all persons alike, without favour or preference.

4. In the event of the construction of the said European and North American Railway by the Company now incorporated for that purpose, the use of so much of said Railway as may be common to that Line and to the Halifax and Quebec Line, shall be conceded on fair and equitable terms and conditions to the governing body of the Halifax and Quebec Railway, if they demand it; and such terms and conditions shall be fixed by two arbitrators and an umpire, or the majority of them, of whom the two arbitrators shall be appointed by the governing bodies of the two Railways respectively, and the umpire shall be named by such arbitrators when so appointed.

5. Provided always, that the two Acts or Bills intituled respectively *An Act to facilitate the construction of the European and North American Railway*, and *An Act further to facilitate the construction of the European and North*

American Railway, which were passed in the last Session of the Legislature of New Brunswick, but which have not yet received Her Most Gracious Majesty's assent, shall in the event of both or either of them receiving such assent, be deemed to be and be construed as one Act with this present Act; and provided also, that nothing in such two Acts or Bills contained shall be so construed as to be inconsistent with or impede the concession of any facilities or the enjoyment of any advantages granted by an Act of the present Session in favour of the National and Provincial undertaking of the Halifax and Quebec Railway, but all provisions of such two Acts or Bills shall be so construed as to give a preference to the construction and maintenance of the said Halifax and Quebec Line, whenever by reason of its traversing the same ground, or otherwise, the interests of the two Railways may conflict or be incompatible.

16th VICTORIA—CHAPTER 2.

An Act in addition to and in further amendment of the Act to incorporate the European and North American Railway Company.

Section.

1. What sum Corporation may borrow, and how.
2. What further Grants of Crown Lands may be made.
3. Directors, how chosen and appointed, who disqualified; quorum; votes how given. On neglect to appoint by shareholders, who to manage affairs.
4. Scale of votes.
5. Government Directors, how appointment limited.
6. When votes not to be given.

Section.

7. What section repealed. When Government may purchase.
8. Railway importations, what duties to be levied on.
9. Police Magistrate may be appointed for Railway; his duties.
10. When special meeting for choosing Directors.
11. This Act what deemed.
12. What Acts inconsistent, repealed.
13. Suspending clause.

Passed 29th October 1852.

WHEREAS it is expedient to make certain alterations and amendments in the Act made and passed in the fourteenth year of Her Majesty's Reign, intituled *An Act to incorporate the European and North American Railway Company*;—

*Be it therefore enacted, &c. as follows:—*1. The said European and North American Railway Company is hereby authorized and empowered to raise by way of Loan, in addition to any amount loaned to such Company by the Province, a sum not exceeding one million of pounds sterling, and to issue therefor its own

Bonds, under Seal ; such Bonds to be for any sum not less than one hundred pounds sterling, bearing interest not exceeding six per cent. per annum, and redeemable in twenty years from the date of each Bond respectively.

2. In addition to the power given the Lieutenant Governor by the said Act of Incorporation, to make grants of land to the said Company, the Lieutenant Governor in Council is hereby empowered to make free grants to such Company of any additional Crown land that may be required for stations, or other necessary purposes connected with the principal line of Railway, or with any of its branches or extensions.

3. The immediate government and management of the affairs of the said Company shall be vested in thirteen Directors, of whom seven, being proprietors of at least twenty shares of stock each in such Company, shall be elected by the shareholders in the manner directed by the fortieth Section of the Act of Incorporation, subject to the alteration in this Act hereafter specified, as to the number of votes to be given by such shareholders in respect to the shares they severally hold ; which seven Directors so chosen shall continue in office until they die, become disqualified, resign, or others duly qualified are elected in their stead ; and the other six of the said Directors shall be appointed by the Lieutenant Governor in Council, none of whom shall necessarily be shareholders in the said Company, and who shall hold their offices during pleasure ; and in case of any vacancy, others from time to time shall be appointed in their places ; provided that no Member of the Legislature, not being a Member of the Executive Government, shall be appointed a Director by the Lieutenant Governor in Council under this Act ; and provided further, that no Director in the said Company shall be a Contractor under or Solicitor to the said Company ; provided also, that not less than three of the said thirteen Directors shall constitute a quorum for the transaction of business, of whom one at least shall be a Director appointed by the Lieutenant Governor in Council ; and that Directors not present may vote by proxy, provided such proxy be a Director ; but no proxy shall give more than three votes in addition to his own vote ; provided that if the shareholders in the said Company shall fail or neglect to appoint Directors as required by the Act of Incorporation

tion and this Act, then and in such case the Directors appointed by the Lieutenant Governor in Council shall have the management of the affairs of the said Company until Directors shall be duly elected by the shareholders.

4. Instead of giving one vote for each share of stock, as provided by the fortieth Section of the said Act of Incorporation, the shareholders in the said Company, on all occasions when their votes are to be given, shall vote according to the following scale :—For one share and not more than two, one vote ; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares ; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares ; for every five shares above thirty and not exceeding sixty, one vote, making sixteen votes for sixty shares ; and for every ten shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares ; which said number of twenty votes shall be the greatest that any shareholder shall be entitled to give.

5. The Lieutenant Governor in Council shall continue to exercise the power of appointing six Directors in the said Company, so long as the said Company shall continue indebted for any Provincial loan ; but when such loan is paid off and discharged, the number of Directors appointed by the Executive shall be in proportion to the number of shares of stock held by the Province ; and if such shares shall be sold and transferred, the power of appointing Directors by the Lieutenant Governor in Council shall cease.

6. No shareholder shall be permitted to vote on any occasion, until all his calls are paid ; and no Director elected by the shareholders, whose calls are unpaid, shall be allowed to vote at the Board of Directors.

7. The fifty seventh Section of the said Act of Incorporation is hereby repealed ; and in lieu thereof, it shall be lawful for Her Majesty's Government, if it shall think fit, subject to the provisions hereinafter in this Section contained, at any time after the expiration of the term of twenty one years, to purchase the said Railway, with its extensions and branches, and all its hereditaments, stock, and appurtenances, for the use of this Province, upon giving to the said Company three calendar months notice in writing of their intention to make such pur-

chase, and upon payment of a sum equal to twenty five years purchase of the annual divisible profits, estimated on the average of the seven then next preceding years ; provided always, that it shall be lawful for the Company, if they shall be of opinion that the said rate of twenty five years purchase of the said average profits is an inadequate rate of purchase of said Railway, reference being had to the prospects thereof, to require, that in case of difference, it shall be left to arbitration, to determine what, if any, additional amount of purchase money shall be paid to said Company ; and provided also, that no such purchase shall be compulsory on said Company unless the said seven years average rate of profit shall exceed ten per cent. per annum.

8. On all articles imported *bona fide* for the construction of the principal Railway, or of any of its branches or extensions, there shall be no higher duties levied than are at present imposed by the existing Revenue Laws of this Province ; and if the Provincial duties shall hereafter be increased, then such articles shall be entitled to a drawback equal to the amount of the increase.

9. The Lieutenant Governor in Council is hereby authorized to appoint fit and proper persons to be Police Magistrates, each of which Police Magistrates shall have authority to act by himself in all cases in which two Justices of the Peace may act, and the jurisdiction of such Police Magistrates may extend along the whole of the principal Railway, its branches and extensions, and throughout all or any of the Counties within which, or within five miles of which, the said Railway, its branches or extensions may pass, according as the Lieutenant Governor in Council may appoint and direct, while the same are in course of construction, and to pay to such Magistrates the amount of compensation which the Legislature may from time to time provide ; and such Police Magistrates are hereby authorized and empowered to appoint, subject to the approval of the Directors of the said Company, such and so many Stipendiary Constables on the said line of Railway as they may deem necessary for the preservation of peace and good order, and to displace the same and appoint others whenever requisite, which Constables shall be under the control and direction of such Police Magistrates ; and such Magistrates and

Constables shall have all the powers, authority, and privileges incident to the office of Police Magistrates and Constables by the provisions of an Act passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act for establishing and maintaining a Police Force in the Parish of Portland, in the City and County of Saint John*, within the district for which they are severally appointed; and such Constables shall be paid a reasonable compensation for their services by the said Company.

10. Within six months, and not sooner than three months after this Act shall come into force, there shall be a special meeting convened of the shareholders in the said Company for the purpose of choosing the requisite number of Directors on their part, and the transaction of such other business as may legally come before said meeting; which meeting shall be called by the President of the said Company, or by any two of the Directors, in the manner provided by the forty first Section of the Act of Incorporation; and the present Directors of the said Company shall continue in office until others are elected and appointed in their stead.

11. All the provisions of this Act shall be deemed to be incorporated in, and to form part of the said Act of Incorporation, and of an Act passed in the fifteenth year of the Reign of Her present Majesty, intituled *An Act to amend an Act to incorporate the European and North American Railway Company*.

12. So much of the said Act of Incorporation passed in the fourteenth year of Her Majesty's Reign, and of the said Act in amendment thereof, passed in the fifteenth year of Her Majesty's Reign, as are inconsistent with, or repugnant to the provisions of this Act, are hereby repealed.

13. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto first had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 28th day of December 1852, and published and declared in the Province the 26th day of January 1853.]

16th VICTORIA—CHAPTER 3.

An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions.

Section.

1. What Acts repealed.
2. When Government to take stock, to what amount, and how to pay therefor.
3. Debentures.
4. How certificates of Government shares held.
5. How, and when dividends and shares disposed of.

Section.

6. What loan, and how may be made by Government to Corporation.
7. What Revenues, &c. pledged for payment.
8. Consulting Engineer, when and by whom appointed.
9. Suspending clause.

Passed 29th October 1852.

*Be it enacted, &c. as follows:—*1. An Act made and passed in the fourteenth year of the Reign of Her present Majesty, intituled *An Act to facilitate the construction of the European and North American Railway*; and also an Act made and passed in the same year, intituled *An Act further to facilitate the construction of the European and North American Railway*, are hereby repealed.

2. When the European and North American Railway Company shall make it appear to the satisfaction of the Lieutenant Governor in Council, that twenty thousand pounds sterling have been actually expended in the construction of a principal line of Railway across this Province, from the Boundary of Nova Scotia to the Eastern Boundary of the State of Maine, or in the construction of certain branches and extensions thereof, or of any of them, or of any portion of them, that is to say, an extension of the Trunk Line from some point between the Bend of Petitcodiac, and the Harbour of Shediac, or from one of those places to the River Miramichi; which is to be constructed simultaneously with, or immediately after the completion of the Road from Saint John to the Bend of Petitcodiac; another branch or extension to some convenient place at or near the Harbour of Shediac, in case the principal line shall not touch such Harbour; and another branch or extension of such principal line of Railway west of the River Saint John, from some point between the City of Saint John and the Eastern Boundary of the State of Maine, to the City of Fredericton, which is also to be constructed simultaneously with, or immediately after the completion of

the Main Trunk Line from Saint John to the Eastern Boundary of the State of Maine, then and in such case the Provincial Treasurer shall be authorized by the Lieutenant Governor in Council to subscribe, on behalf of the Province, for shares in the said Company to the amount of five thousand pounds sterling; and in payment therefor, to deliver to the said Company special Certificates of Debt, to be called Debentures, bearing interest at a rate not exceeding six per cent. per annum, payable half yearly, the principal money redeemable in twenty years; and so from time to time, when it shall be satisfactorily proved to the Lieutenant Governor in Council, that the proceeds of the Debentures previously delivered have been expended in the construction of such principal line of Railway, or its branches or extensions as aforesaid, and that a further sum of at least twenty thousand pounds sterling has been actually expended in like manner, the Provincial Treasurer shall be again authorized to subscribe, on behalf of the Province, for shares in the said Company to the amount of five thousand pounds sterling, and also to pay in full for such shares, by a further delivery of Debentures; provided always, that the amount of shares subscribed for by the said Provincial Treasurer on behalf of the Province, shall not exceed in the whole the sum of two hundred and fifty thousand pounds sterling, and that the route or location of the principal line of Railway, and the several branches and extensions herein specified, before being finally adopted, shall in all cases be subject to the approval of His Excellency the Lieutenant Governor in Council.

3. The Debentures shall be in the form hereto annexed, marked Schedule No. 1; they shall be signed by the Lieutenant Governor, and verified by his seal of office, and also countersigned by the Provincial Treasurer; they shall be numbered consecutively, beginning with number one, and shall be issued in such sums, not less than one hundred pounds sterling, as may be deemed expedient; the interest thereon shall be paid half yearly in London, and the principal of such Debentures shall be paid in full at the end of twenty years from the date of their respective issues, to the then holders thereof, at the same place.

4. The certificates of shares in the European and North American Railway Company from time to time received by the

Provincial Treasurer, shall be held by him for and on behalf of the Province, as public property ; and while such shares are so held, no vote thereon shall be given at any meeting of the shareholders in the said Company ; and no interest shall be paid to or be claimed by the Province, in respect of such shares, in consideration of their having been paid for in full at the time of subscription.

5. The dividends accruing from the shares held by the Provincial Treasurer shall be applied towards the payment of interest on the said Debentures ; and at the expiration of twenty years, when such Debentures become due and payable, the shares not previously disposed of shall then be sold, and the proceeds applied towards the payment of the said Debentures ; provided that there shall be no sale by the Province, of any share so held, below the par value, until the expiration of ten years from the time of the first subscription for stock by the Provincial Treasurer.

6. The Lieutenant Governor in Council is hereby authorized and required to advance Provincial Debentures in the form specified in Schedule No. 1, payable in like manner, by way of loan to the said European and North American Railway Company, such loan being payable in twenty years, with interest thereon payable half yearly, and to an amount which, with the Provincial subscriptions for stock, shall not in the aggregate exceed three thousand pounds sterling per mile of the principal line of Railway, and of its said several branches and extensions ; such loan to be from time to time advanced as the construction of the principal Railway, and of such branches and extensions shall progress, and under such restrictions as the Lieutenant Governor in Council may from time to time impose for the protection of the public interest, and to secure the proper application of the said loan ; and such loan, and the interest accruing thereon, is to attach, and stand, and is hereby declared to be a primary mortgage, or first charge, in favour of this Province, upon the principal Railway, its branches and extensions, stations, station houses, rolling stock, and property of every description, and shall attach immediately on the advance of each portion of such loan, upon all property owned by the said Company, and whether the said principal Railway, its branches and extensions, shall be in course of construction or

fully completed, any law, usage, or custom to the contrary notwithstanding ; and in order to ascertain and fix the amounts from time to time advanced to the said Company, the President and Treasurer of the same shall deliver to the Provincial Treasurer, on the receipt of each portion of the loan, a certificate under the Seal of the Company, stating its amount in the Form No. 2 in the Appendix to this Act ; which receipt shall be sufficient evidence of such primary mortgage, or first charge, under this Act.

7. Subject to the payment of any previously existing Provincial liability, and of the Civil List, the faith and credit of this Province, and the ordinary revenues thereof, and the amount or proceeds of any special impost which may hereafter be levied and collected for the purpose of paying off all such Railway Debentures, and the interest thereon, shall be and hereby are declared pledged to any and every holder of the same for payment of interest as it becomes due, and for payment in full of the said Debentures when the principal of the same becomes due and payable.

8. The Lieutenant Governor in Council is hereby authorized from time to time to appoint during pleasure, some fit and proper person of eminent standing in his profession, as consulting Engineer on behalf of this Province, whose duty it shall be to watch over the interests of the Province, in the construction of the principal Railway herein before described, and its branches and extensions.

9. This Act shall not come into force until Her Majesty's Royal approbation thereof shall be first had and declared.

SCHEDULE.

No. 1.

[L. S.] PROVINCE OF NEW BRUNSWICK.

No. —

£—— Sterling Debenture. £—— Sterling transferable.

Under the authority of the Legislature of New Brunswick.

The Government of New Brunswick promises to pay in London, to the bearer, the sum of pounds sterling, twenty years from and after the day of ; likewise the interest from the same date, at the rate of six per cent.

per annum, to be paid half yearly, on the presentation of the proper Coupons for the same, as hereunto annexed, on the day of and the day of in each year, at in London.

In testimony whereof, I, the Lieutenant Governor, by virtue of the authority vested in me in and by an Act of the General Assembly of the Province of New Brunswick, passed the day of 18 , intituled *An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions*, have hereunto set my Hand, and affixed my Seal of Office, at Fredericton, in the said Province, and the Provincial Treasurer has countersigned the same this day of A. D. 18 .

A. B. *Lieut. Governor.*

C. D. P. Treasurer.

FORM OF COUPON.

Province of New Brunswick.

Debenture No. — £—— Sterling.

Pounds Sterling payable at the Office of , London,
being Six months Interest on the above Debenture, due
day of .

A. B. Lieut. Governor.

C. D. P. Treasurer.

No. 2.

The European and North American Railway Company hereby acknowledge to have this day received from Treasurer of the Province of New Brunswick, the sum of pounds sterling, by way of loan from the said Province in Debentures, No. to No. inclusive, under and by virtue of the provisions of an Act of Assembly made and passed in the sixteenth year of Her Majesty's Reign, intituled *An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions.*

This certificate is granted under the directions of the said Act, and in conformity thereto the Seal of the said European

and North American Railway Company is hereunto affixed, and the President and Treasurer of the said Company have hereunto placed their signatures, this day of in the year of our Lord .

[L. S.]

E. F. *President.*G. H. *Treasurer.*

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 28th day of December 1852, and published and declared in the Province the 26th day of January 1853.]

17th VICTORIA—CHAPTER 68.

An Act to amend the Acts relating to the European and North American Railway Company.

Section.

1. Increase of Stock to £1,500,000 Sterling.
2. Shares to be £20 Sterling.
3. Deposit, valuation of.
4. Capital Stock may be further increased.
5. Shares to be numbered, and considered personal estate.
6. Every registered subscriber to be deemed a shareholder.
7. Every allottee of shares having paid deposit, to be entered on Register.
8. "Register of Shareholders" to be kept.
9. "Shareholders' Address Book" to be kept.
10. Provision for certificate of proprietorship in case of loss.
11. Form of transfer in case of consolidation.
12. Provisions in case of transfer.
13. Agent to report transfer, and entry thereof to be made in Register.
14. Register to be closed thirty days previous to ordinary meetings.
15. Appointment of Agent in Great Britain.
16. Calls not to exceed £5. and not to be made at less intervals than 2 months.
17. Provisions for notice of calls.
18. Notice to be given previous to declaring share forfeited.
19. Provisions for increase of Capital, same not to exceed £3,000,000 Sterling.
20. Holders of Bonds may convert same into shares at par.

Section.

21. Company may convert shares into a general Capital Stock, but not to affect Provincial Stock without consent of Governor in Council.
22. Provisions for "Stock Register," and regulation thereof.
23. Provision for payment of loan bonds.
24. Provisional bond certificate may be given for money raised on loan.
25. Allotment of Provincial Debentures.
26. Provision for ordinary meetings and mode and time of retirement of elective Directors.
27. Auditors to be elected.
28. Half yearly accounts of Company to be made up and delivered to Auditors.
29. Powers of Company at ordinary meetings.
30. Notice of general meetings of Company to be published in London.
31. Power of compulsory purchase of lands for stations, &c.
32. Power to divert streams, &c.
33. Owners of lands and persons injured by diversion, &c., to be compensated.
34. Company bound to fence and secure banks, &c.
35. Owner of lands taken, entitled to pre-emption in case of relinquishment.
36. Three years for claims to be submitted.
37. This Act to be deemed part of former Acts of Incorporation.
38. Suspension clause.

Forms,

Passed 1st May 1854.

WHEREAS since the passing of the Act for incorporating the European and North American Railway Company, the sum of one hundred thousand pounds currency of the capital stock of the said Company has been subscribed, and the deposit of five shillings per share actually paid thereon, as provided by the said Act, and by reason thereof the said Company has been duly

organized, and is empowered to make and execute the works, and to do the several acts and matters thereby authorized, and has commenced the execution of the said works, and has contracted with certain persons for the constructing and equipping of a portion of the Railways in the said Act mentioned : And whereas it is contemplated that a considerable portion of the capital stock of the said Company will be subscribed for and held by persons resident in Great Britain or elsewhere out of this Province, and it is expedient to make further provision as to the capital of the said Company, and in other respects to amend the several Acts relating to the said Company, or some of them ;—

*Be it therefore enacted, &c. as follows:—*1. The capital stock of the said Company shall be one million five hundred thousand pounds sterling, and shall be divided into seventy five thousand shares of twenty pounds sterling each, which shall be deemed to be and is designated as the original capital of the Company.

2. The shares already subscribed for shall be taken to be shares of the denomination of twenty pounds sterling each, and the deposits made upon such shares shall be taken as deposits made upon such last mentioned shares.

3. All deposits upon shares paid in New Brunswick shall be received at the par of exchange with eight per cent. premium.

4. The capital stock of the said Company may at any time, or from time to time, be increased in the manner hereinafter provided.

5. The shares in the said original capital, and in any further capital to be hereafter raised, shall be numbered in arithmetical progression, and every such share shall be distinguished by its appropriate number ; and all such shares shall be personal estate and transmissible as such, and shall not be of the nature of real estate.

6. Every person who shall have subscribed or shall subscribe either in this Province or elsewhere, to the extent of at least one share in the capital of the Company, or shall otherwise have become entitled to a share in the Company, and whose name shall have been entered in the Register of Shareholders hereinafter mentioned, shall be deemed to be a shareholder of the Company.

7. All persons who, either in this Province or elsewhere, shall apply for a share or shares in the Company, and shall

thereupon have one or more shares allotted to them, and shall have paid the deposit required on allotment, shall be deemed to have subscribed for the share or shares upon which such deposit shall have been paid, and may thereupon be entered upon the Register of Shareholders of the Company hereinafter mentioned.

8. The Company shall keep a book to be called "The Register of Shareholders;" and in such book shall be entered from time to time the names and additions of the several persons entitled to shares in the Company, with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amounts respectively paid on such shares.

9. The Company shall also provide and keep a book to be called "The Shareholders' Address Book;" in which shall from time to time be entered in alphabetical order, the corporate or official name or title of the several shareholders, being Corporations or public bodies, and the surnames of the several other shareholders, with their respective christian names, places of abode, and description, so far as the same shall be known to the Company.

10. On the demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share, under the common seal of the Company, to be delivered to such holder, and the same may be according to the form in the Schedule (A) to the said recited Act annexed, or to the like effect; and if any such certificate be lost or destroyed, then, upon proof thereof, and sufficient security being given if required, a similar certificate shall be given to the party entitled, and a due entry of the substituted certificate shall be made in the Register of Shareholders.

11. Every transfer of a share or stock, in case of conversion or consolidation into stock, under the provisions hereinafter contained, shall be in the form in the Schedule (A) to this Act annexed, or to the like effect.

12. Every such transfer when executed in this Province, or in any of Her Majesty's Possessions in North America, or in the United States, shall be delivered to the Secretary together with the certificate of proprietorship, and when executed elsewhere shall be delivered to the Agent of the Company duly

appointed as hereinafter mentioned, together with said certificate, and upon every such delivery the transferer shall be exempted from any further liability in respect of the share or shares thereby transferred, and the transferee shall thenceforth be entitled to all the privileges and subject to all the obligations of a shareholder, in respect of such share or shares.

13. The Agent to whom such delivery shall have been made shall, as soon as practicable thereafter, report to the Secretary of the Company the fact of such transfer having been made, together with the full particulars thereof, and the Secretary shall, on receipt of such report, and also on the delivery to himself personally of such transfer and certificate as herein-after mentioned, make the necessary entries of such transfer in the Register of Shareholders.

14. It shall be lawful for the Directors to close the Register for the purposes of transfer, for any period not exceeding thirty days, previous to each ordinary meeting, and any transfer made during the time when the Register shall be so closed shall, as between the Company and the transferee, but not otherwise, be considered as made subsequently to such ordinary meeting.

15. It shall be lawful for the Directors of the Company to appoint under the common seal of the Company, an Agent for transacting the business of the Company in Great Britain, who shall be resident in London, and to assign and pay to such Agent a reasonable salary or compensation to be fixed by them, and also from time to time, if and as occasion shall require, to remove such Agent, and in case of his death, resignation, or removal, to appoint another in his stead, and to define and prescribe the powers and duties of such Agent; and the person so appointed shall have full power and authority to exercise the powers and perform the duties so defined and prescribed, and to bind the Company thereby.

16. No call upon any share shall exceed five pounds, and calls shall not be made at less intervals than two calendar months.

17. Notice of every such call shall be given in the Royal Gazette at Fredericton, in one or more of the Newspapers published in the City of Saint John, in one or more daily morning Newspapers published in London, and by a Circular

Letter sent by Post to each registered shareholder, (according to his address in the Shareholders' Address Book) and no call shall be made payable at a time less than thirty days from the announcement in the said Royal Gazette at Fredericton, and in such paper published in London.

18. Before declaring any share forfeited, the holder of which shall appear upon the Shareholders' Address Book to be resident beyond the limits of this Province, a circular notice of the intention to forfeit shall be transmitted by Post to the address of such shareholder, as the same appears on the said Shareholders' Address Book; and when such shareholder shall appear to be resident in Great Britain, public notice of the intention to forfeit shall also be given in one or more of the daily morning Newspapers published in London, in addition to the publication thereof required by the provisions of the Act of Incorporation.

19. In case it shall be necessary or deemed expedient at any time or times hereafter to increase the original share capital of the Company, either for the general purposes of the undertaking, or for the conversion or redemption of the Bonds of the Company, or any portion thereof, or of the Provincial Debentures issued to the Company by way of loan, such increase of capital may be effected in manner following, that is to say, by resolution of the Directors of the Company, sanctioned and approved by two thirds at least of the votes of the shareholders present in person or by proxy, at a general meeting convened with special notice of the intended object; and the further capital so authorized may be raised by the issue of new shares, at such times and to such persons, and in such manner as the shareholders so present in person or by proxy shall by the like proportion of votes approve or direct; provided always, that the original and increased capital stock of the Company shall not exceed three millions of pounds sterling.

20. It shall be lawful for the said Company, on obtaining subscriptions for shares, and as one of the terms of allotting the Bonds authorized to be issued by the Company, to give to the holders of such bonds respectively the option of converting the same into shares in the capital of the Company at par, provided such option be exercised within the time and in the

manner to be prescribed on such allotment, and for the purpose of such conversion to create and issue shares or stock in the Company of equal amount.

21. It shall be lawful for the Company at any time, and from time to time, with the consent of a general meeting of the Company, to convert or consolidate all or any part of the shares into a general capital stock, to be divided amongst the shareholders according to their respective interests therein; and after such conversion such stock, as well as any stock which shall have been created under the provisions herein contained for the conversion of Bonds, shall be transferable and transmissible in any sums or parts not being fractional parts of a pound, in the same manner and subject to the same regulations and provisions, so far as applicable, as are or shall be contained in the Acts then in force relating to the Company, in reference to shares in the capital of the Company; provided always, that no consolidation or conversion of the stock held by the Province shall take place without the consent of the Governor in Council.

22. The Company shall from time to time cause the names of the several parties interested in such stock, and the amount of interest therein of such parties respectively, to be entered in a Book to be called "The Stock Register," and the several holders of such stock shall be entitled to participate in the dividends and profits of the Company according to their respective interests therein, and such interest shall, in proportion to the amount thereof, confer on the respective holders the same privilege of voting qualification and otherwise, as would have been conferred by shares of equal amount in the capital of the Company, but so that none of such privileges, except that of participation in the dividends and profits, shall be conferred by the holding of any aliquot parts of such amount of stock, which would not, if existing in shares, have conferred such privileges respectively.

23. And whereas by an Act passed in the sixteenth year of the Reign of Her present Majesty, intituled *An Act in addition to and in further amendment of the Act to incorporate the European and North American Railway Company*, the Company is empowered to raise by way of loan, in addition to any amount loaned to such Company by the Province, a sum

not exceeding one million pounds sterling, and to issue therefor its own Bonds under Seal, of the denomination, and bearing the interest, and redeemable as in the Act mentioned ;—Such Bonds may be made payable to bearer, and may be in the form or to the effect in the Schedule (B) to this Act ; and to every such Bond shall be attached Coupons for the payment of the interest thereon half yearly, and such interest shall be payable at the Offices or Bankers of the Company in London, as may be determined by the Directors of the Company.

24. It shall be lawful for the Company to raise the money so authorized to be borrowed by way of loan on the Company's Bonds, by obtaining subscriptions for the amount of such Bonds respectively, payable by such instalments as the Directors may appoint, and in the mean time, until the amount secured by such Bonds respectively shall have been paid up in full by the persons respectively subscribing therefor, to pay interest on the amounts from time to time paid thereon half yearly, at a rate not exceeding six pounds per centum per annum, and to deliver to the parties so subscribing provisional bond certificates in form as the Directors shall think fit.

25. It shall be lawful for the Company to allot and apportion to and among the several persons subscribing for shares in the capital of the Company, Provincial Debentures issued under the several Acts relating to the Company, or some of them, in such proportions relatively to the amount respectively subscribed, as the Directors shall think fit and determine ; and until the full nominal amount of such Debentures respectively shall have been paid up by the persons to whom the same shall have been so allotted respectively, to pay interest on the amounts from time to time paid up thereon half yearly, at the rate of six pounds per cent. per annum, and to deliver to the allottees thereof provisional certificates in respect of such Provincial Debentures in such form as the Directors shall think fit.

26. At the first general meeting of the shareholders to be held after the passing of this Act, and which may be held at such time as the Directors shall appoint, at the City of Saint John, in this Province, the times of holding the ordinary meetings of the Company shall be determined, and two ordinary meetings shall be held in each year in the months of February and August ; and at the first ordinary meeting, the Directors

not appointed by the Lieutenant Governor shall go out of office, and Directors, qualified as required by the Acts relating to the Company, shall be chosen in their stead; and the Directors to be so chosen shall continue in office until the next meeting to be held in the month of August following; and at such last mentioned meeting two of the Directors, to be agreed upon, (or, in case of disagreement, to be determined by lot among the elective Directors) shall go out of office; and at the ordinary meeting to be holden in the following month of August, two others of such elective Directors who have been longest in office, to be determined in like manner, shall go out of office; and at the meeting to be holden in the next following month of August, the remaining three of the elective Directors who have been longest in office, shall go out of office; and thereafter, at each meeting to be holden in August, the two Directors who shall then have been longest in office shall retire; and at such meetings respectively, Directors shall be chosen in the place of those so respectively retiring, who shall, however, in all such cases, be re-eligible.

27. At the first general meeting to be held under the provisions of this Act, whereat Directors are to be elected, two Auditors are to be elected, who shall continue in office until the first ordinary meeting to be held in the month of August then next following; and at such last mentioned meeting, one of the said two Auditors, to be determined by agreement among themselves, or, in case of disagreement, by lot, shall go out of office, and another Auditor shall be elected in his stead; and at the meeting to be held in the month of August then next following, the other Auditor shall go out of office, and another be elected in his stead; and at each ordinary meeting in the month of August to be held thereafter, the Auditor then longest in office shall retire, and another be elected in his stead, and in all such cases the retiring Auditor shall be re-eligible.

28. The Accounts of the Company shall be made up and audited half yearly, for the half years respectively ending on the thirtieth of June and thirty first of December in each year, and such half yearly Accounts shall be delivered to the Auditors at least fourteen days before the holding of the ordinary meetings in each year.

29. All acts which by the recited Acts relating to the Com-

pany are required to be done or may be done at the annual meetings therein mentioned, except the election of Directors and Auditors, as to which special provision is herein made, may be lawfully done and transacted at any ordinary general meeting of the Company.

30. In addition to the notice prescribed by the Act of Incorporation as necessary for convening general meetings of the Company, notice thereof shall also be given by advertisement in one or more of the daily morning Newspapers published in London, and every such advertisement shall specify the place, the day, and hour of meeting, and in case of an extraordinary meeting the purpose for which the meeting is called.

31. And whereas doubts have been entertained whether under the provisions of the said recited Acts the Company have power to purchase compulsorily land for stations and other railway purposes, where the lands so required would exceed six rods in width, and it is expedient that such doubts should be removed, and that the Company should be empowered to purchase and take compulsorily lands for such purposes without such limit as aforesaid;—The Company shall have power to purchase and take compulsorily such lands as may be required for stations, approaches, sidings, warehouses, offices, sheds, and workshops, connected with and necessary for the undertaking; provided that the lands so taken shall not exceed six rods in width in addition to the six rods authorized to be taken by the original Act of Incorporation, and sixty rods in length, and in no case shall the stations taken under this Act on granted or ungranted lands be at less than five miles distance apart, and further that before taking the same, a distinct plan and description by metes and bounds, of the quantity required, shall be filed in the Provincial Secretary's Office, and a copy thereof furnished to the owner of such lands at least twenty days previous to any Order in Council made thereon, and that the lands so taken shall not be vested in the Company until the location and plan be approved and confirmed by the Lieutenant Governor in Council.

32. Whenever any stream, river, water course, pond, or lake may lie in the route of the said Railway or its branches, to drain, divert, or alter the course of which, may be necessary for the construction of the said Railway or its branches, or for

the security and preservation thereof when constructed, it shall and may be lawful for said Company to drain, divert, or change the course of any such river, stream, water course, pond, or lake, and for that purpose to enter upon and take any lands that may be necessary for such draining, diversion, or altered course, and construct such works as may be required for the construction, security, and safe working of said Railway and its branches, subject to the payment of such loss and damage as any person may sustain in consequence thereof, provided that before making such diversion, a plan, copy, Order in Council, and confirmation shall be first filed, served, and had as provided in and by the thirty first Section of this Act, with reference to lands.

33. The owners of all lands taken pursuant to this Act, and any person who may be injured by the diversion and drainage of any stream, river, water course, pond, or lake, shall be entitled to compensation, to be assessed and paid as prescribed in the thirty first Section of the Act of Incorporation in regard to lands, provided that in assessing such damages for any lands or diversion under this Act, no deduction shall be made for any direct or indirect advantage which may accrue to the owner by reason of such location or diversion.

34. The said Company shall be bound to fence all lands taken under this Act in the same manner as is provided for lands taken under the Act of Incorporation, and in all cases of the diversion of streams, shall be bound to secure the banks of the new cut occasioned by said diversion.

35. In case the lands so taken under this Act shall at any subsequent period be found by the said Company to be unnecessary for the purposes of the said Railway, then the original owner thereof, or his assigns, shall be entitled to the pre-emption thereof upon fair and reasonable terms, to be settled in case of disagreement by arbitration in the ordinary manner.

36. Three years from the time of taking any land, or making any diversion or drainage under the provisions of this Act, shall be allowed to the owner of the land taken or person sustaining damage in consequence of such diversion or drainage, to make and submit his claim therefor in writing to the Company.

37. All the provisions of this Act shall be deemed to be in-

incorporated into and form part of the Acts now in force relating to the Company, and so much of the said Acts respectively as are inconsistent with or repugnant to the provisions of this Act, or in lieu of which other provisions are made by this Act, is hereby repealed.

38. This Act shall not come into operation or be in force until Her Majesty's Royal approbation thereof is first had and declared.

SCHEDULE.

(A)

Form of Transfer of Shares or Stock.

I of in consideration of the sum of paid to me by of , do hereby transfer to the said Shares numbered in the undertaking called "The European and North American Railway Company," (or £ consolidated Stock in the undertaking called the European and North American Railway Company,) standing in my name in the Books of the Company, to hold unto the said his Executors, Administrators, and Assigns, (or Successors and Assigns) subject to the several conditions on which I held the same at the time of the execution hereof; and I the said do hereby agree to take the said shares (or stock) subject to the same conditions. As witness our hands and seals this day of .

(B)

European and North American Railway Company.

No. — £100 Sterling.
Company's Bond transferable under the authority of the Legislature of New Brunswick.

The European and North American Railway Company hereby acknowledges to have received, and promises to pay in London to the bearer, the sum of £100 sterling, twenty five years from and after the day of , 18 , likewise the interest from the same date, at the rate of £6 per cent. per annum, to be paid half yearly on the presentation of the proper Coupons for the same, as hereunto annexed, on the day of , and the day of in each year, at the Offices or Bankers of the Company in London.

would be of great public utility: And whereas it is deemed advisable to grant encouragement to such enterprising persons as may be desirous and willing at their own cost and charges to make and maintain a Railroad in the direction aforesaid, by granting to them an Act of Incorporation;—

Be it therefore enacted, &c.—1. The Honorable James Allanshaw, Colin Campbell, Beverly Robinson, John M. Master, John Wilson, Harris Hatch, Thomas Wyer, the Honorable William F. Odell, Alexander Rankin, James Rait, the Honorable Ward Chipman, Charles Simonds, Hugh Johnston, John R. Partelow, the Honorable Thomas Baillie, William Walker, James Douglas, Adam Jack, E. D. W. Ratchford, James W. Chandler, A. L. Street, E. N. Kendall, Samuel Frye, Samuel H. Whitlock, Richard M. Andrews, J. G. Woodward, and Jeremiah M. Connell, all of the Province of New Brunswick, and Andrew Patterson, George Auldjo, George Pemberton, William Price, the Honorable George Moffat, William Walker, Henry LeMesurier, James Leslie, all of the Province of Lower Canada, and such other persons as shall from time to time become proprietors of shares in the Corporation hereby established, their successors and assigns, shall be and they are hereby ordained, constituted, and declared to be a Corporation, body politic and corporate, by the name of “The Saint Andrews and Quebec Railroad Company,” and shall by that name have perpetual succession and a common seal, and shall and may by the said name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all Courts and places whatsoever, and shall also have power and authority to purchase, hold, and enjoy lands, tenements, and hereditaments for them and their successors and assigns, for making the said Railroad, and generally for the purposes of carrying the provisions of this Act into effect; and also that they the said Company, or the major part of them, shall from time to time and at all times during the continuance of this Act have full power and authority to constitute, make, ordain, and establish such laws, regulations, and ordinances as may be deemed necessary for the good rule and government of the said Corporation; provided that such laws, regulations, and ordinances as may be deemed necessary be not contradictory or repugnant to the laws of this Province.

2. The capital stock of the Corporation hereby established shall not be less than the sum of seven hundred and fifty thousand pounds, to be paid in current money of this Province, the whole amount of the said capital stock to be divided into thirty thousand shares, which shares shall be vested in the several persons hereinbefore named, and such other persons as may take shares in the said Corporation, their successors and assigns, in proportion to their respective shares and interest, which said shares shall be of the value of twenty five pounds each, four per cent. of which shall be paid at such time and place as the Directors of the said Company shall appoint, and the remaining ninety six per cent. in such parts and proportions and at such time and times as the said Directors shall determine, which amount shall not at any one period be more than ten per cent. on the amount of the capital or stock belonging to any individual, and that ninety days previous notice of such payment being required shall be given in one or more of the Newspapers to be published in this Province; and every of the said shares shall be personal estate and transferable as such, and not of the nature of real property, and every such share shall entitle the holder thereof to a proportional part of the profits and dividends of the said Corporation; provided always, that the money so to be raised as aforesaid is hereby directed and appointed to be laid out for and towards the making and completing and maintaining the said Railroad, and other the purposes therewith connected mentioned in this Act, and to no other use or purpose whatsoever.

3. So soon as ten thousand shares of the said capital stock shall have been actually subscribed for, and not before, it shall be lawful for the said Corporation and they are hereby authorized and empowered by themselves, their deputies, agents, officers, and workmen, to make and complete a single or double line of Railroad from Saint Andrews aforesaid to the boundary line of Lower Canada, with such deep cuttings, drains, embankments, bridges, viaducts, inclined planes, stationary steam engines, stopping places and passing places as may be expedient and necessary, and to erect such wharves, warehouses, and stores on the line of the said Railroad, and to purchase and acquire such locomotive steam engines and carriages, wagons, and other machinery and contrivances, and real or moveable

property as may be necessary for the making and maintaining the said Railroad, and for the transport of passengers and merchandise thereon, and may hold and possess the land over which the said Railroad is to pass in the manner and under the provisions hereinafter set forth.

4 to 9 inclusive repealed by 13th Vic. cap. 1.

10. Not less than five Directors shall constitute a Board for the transaction of business, of which the President shall always be one, except in case of sickness or necessary absence, in which case the Directors present may choose one of their number as Chairman in his stead; the President shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before them the President shall have a casting vote.

11. The number of votes which each shareholder shall be entitled to on every occasion when in conformity to the provisions of this Act the votes of the stockholders are to be given, shall be in the following proportion, that is to say, for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any stockholder shall be entitled to have; and all stockholders may vote by proxy if they shall see fit, provided such proxy be a stockholder and do produce from his constituent whom he shall represent or for whom he shall vote. an appointment to that effect in the following form:—

“ I (or We) of do hereby nominate, constitute, and appoint of , to be my proxy, in my name and in my absence to vote or give my assent to or dissent from any business, matter, or thing relative to the Saint Andrews and Quebec Railroad Company, that shall be mentioned or proposed at any meeting of the said Company or any of the members thereof, in such manner as the said shall think

proper and for the benefit of the said Company. In witness whereof, I (or We) have hereunto set hand and seal the
 day of in the year of our Lord one thousand eight
hundred and .”

And whatever question, election of proper officers, or other matters or things shall be proposed, discussed, or considered in any public meeting of the members of the said Corporation under the authority of this Act, shall be determined and decided by the majority of votes and proxies then and there present ; provided always, that the same person shall not vote as a proxy for any number of persons who together shall be proprietors of more than one hundred shares.

12. The first general meeting of the said Corporation shall be held in Saint Andrews aforesaid, as soon as two hundred and fifty thousand pounds of the capital stock of the said Corporation shall have been actually subscribed for, provided that thirty days previous notice thereof shall be given in the Royal Gazette or other Newspaper printed at Fredericton, also in one of the Newspapers published in the City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews ; and the same general meeting of the said Corporation and every subsequent general meeting shall be held at Saint Andrews aforesaid on the first Tuesday in May in each and every succeeding year ; and at such first or at any subsequent general meeting, the members present or appearing by proxy shall choose by a majority of votes thirteen persons to be Directors, (of whom five shall form a quorum for the transaction of all business which the said Directors shall have power and authority to transact) being proprietors of at least ten shares each, to be Directors of the said Corporation, for the purpose of managing the affairs and business thereof in the manner hereinafter directed, and as shall from time to time be ordered by the said members in their general meetings ; but if at any time it shall appear to any twenty or greater number of members of the said Corporation holding together at least two hundred shares therein, that for the more effectually carrying this Act into effect a special meeting of the said members is necessary, it shall be lawful for them to cause notice thereof to be given in the Royal Gazette or other Newspaper published in Fredericton, also in one of the Newspapers published in the

City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews, and in such other manner as the said Corporation shall in any general meeting thereof appoint with respect to such special meetings, declaring in such notice the time when and the place where such special meeting is to be so held in the Town of Saint Andrews, the same not being less than thirty days after such notice shall have been first given, and likewise specifying in such notice the purpose for which such special meeting is called; and the members of the said Corporation are hereby authorized to meet pursuant to such notice, and to proceed to the execution of the powers by this Act given them with respect to the matters in such notice specified only; and all acts done in such matters by the authority of the majority of votes given at such special meeting, (such majority consisting of votes given by the holders of one third of the whole number of shares then subscribed for altogether) shall be valid to all intents and purposes as if done at any meeting held in the manner hereinbefore appointed for the holding of general meetings; and it shall be lawful for the said Corporation at any such general or special meeting, in case of the death, absence, or removal of any Director, to name and appoint others in the room and stead of the Director or Directors so dying, absent, or removed as aforesaid.

13. Provided always, That such Directors shall from time to time be subject to the examination and control of the said general meeting or other meetings of the said members as aforesaid, and shall pay due obedience to all such orders and directions in and about the premises as they shall from time to time receive from the said Corporation at any such general or other meeting, such orders and directions not being contrary to any express directions or provisions in this Act contained; provided also, that no one Director, of whatever number of shares he may be the proprietor, shall have more than one vote in the Board of Directors except the Chairman who shall be chosen by and from among the said Directors, and who in case of an equal division of members shall have the casting vote, although he may have given one vote before.

14. At every such general meeting the said Directors shall have power to call for, audit, and settle all accounts of money laid out and disbursed on account of the said Railroad, with

the Treasurer, receiver or receivers, or other officer or officers to be by them appointed, or any other person or persons whomsoever employed by or concerned for or under them in and about the aforesaid Railroad, and for that purpose shall have power to adjourn themselves over from time to time and from place to place as shall be determined by a majority of votes given in the manner aforesaid ; and every general meeting of such Directors met together by the authority of this Act shall have power from time to time to make such call or calls of money from the members of the said Corporation to defray the expenses of or to carry on the same as they from time to time shall find expedient and necessary for those purposes, so that no call do exceed the sum of ten pounds current money of this Province for every hundred pounds, and so as no calls be made but at intervals of one month at least from each other ; which money so called for shall be paid to such person or persons and in such manner as the said general meeting or the said Directors shall from time to time appoint and direct for the use of the said undertaking ; and such Directors, by virtue of the orders which they shall receive from the general meeting, shall have full power and authority to direct and manage all and every the affairs of the said Corporation as well as in purchasing and selling lands, liberties, privileges, easements, chattels, and materials for the use of the said Railroad, as in employing, ordering, and directing the work and workmen, and in appointing and removing under officers, clerks, servants, and agents, and in making all contracts and bargains touching the said undertaking ; provided that no such purchase, bargain, or other matter be done or transacted without the concurrence of the majority of the said Directors assembled ; and every owner or owners of one or more part or parts, share or shares of the said undertaking shall pay his, her, or their share or proportion of the moneys to be called for as aforesaid at such time and place as shall be appointed, of which three weeks notice at least shall be given by inserting the same in the Royal Gazette or other Newspaper published in Fredericton, also in one of the Newspapers published in the City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews, and in such other manner as the said Corporation shall at any general meeting direct or appoint ; and if any

person or persons shall neglect or refuse to pay his, her, or their rateable or proportionable part or share of the said money to be called for as aforesaid, at the time and place appointed by such general meeting or Directors, he, she, or they so neglecting or refusing shall incur a forfeiture in the proportion of five pounds for every hundred pounds of the sum called for ; and in case such person or persons shall neglect to pay his, her, or their rateable or proportionable part or share of the said money to be called for as aforesaid, for the space of three calendar months after the time appointed for the payment thereof as aforesaid, then he, she, or they so neglecting shall forfeit his, her, or their respective share or shares, part or interests in the said Corporation, undertaking, and premises, and all the profit and benefit thereof, and such share and shares shall be sold by the Directors of the said Corporation by public auction after six weeks notice of such intended sale in the Royal Gazette or other Newspaper published in Fredericton, also in one of the Newspapers published in the City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews ; and the amount for which the same shall be sold, after deducting the expense of the sale, shall be paid over to the person or persons whose share or shares shall be so forfeited and sold, and the purchaser shall immediately pay up the instalment for the non-payment of which the said share or shares shall have been sold, and if he fail immediately to pay such instalment the share or shares shall be again put up and sold.

15. The said Corporation shall always have power and authority at any general meeting held as aforesaid to remove or displace any person or persons chosen as Directors in the manner aforesaid, or any other officer or officers under them, and to revoke, alter, amend, or change any of the rules and directions hereinbefore prescribed and laid down with regard to their proceedings among themselves, as to the major part of them shall seem meet, (the method of calling general meetings, and their time and place of meeting and voting, and appointing committees only excepted) and shall have power to make such new rules, bye laws, and orders for the good government of the said Corporation, for the good and orderly using the said Railroad, and of the work and property herein-

before mentioned, and for the well governing of the engineers, workmen, wagonmen, and other persons employed by the said Corporation in and about the said Railroad, and the works and property therewith connected, as to the major part of such general meeting shall seem meet; which said rules, bye laws, and orders being put into writing under the common seal of the said Corporation, shall be published at least twice in the Royal Gazette or other Newspaper published in Fredericton, also in one of the Newspapers published in the City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews, and affixed in the office of the said Corporation, and in all and every of the places where the dues are to be paid, and in like manner as often as any change or alteration shall be made to the same, and shall be binding upon and observed by all parties, and shall be sufficient in any Court of law to justify all persons who shall act under the same.

16. It shall be lawful for the several members of the said Corporation to sell and dispose of any share or shares which they may have or hold, or to which he, she, or they shall and may be entitled, subject to the rules and conditions herein mentioned; and any purchaser or purchasers shall for his, her, or their security, as well as that of such proprietor or proprietors, have a duplicate or duplicates of the deed of bargain and sale and conveyance made to him, her, or them, and executed by such person or persons of whom he, she, or they shall purchase the same, and also by the purchaser or purchasers, one part whereof duly executed both by the seller and purchaser shall be delivered to the said Directors or their clerks for the time being, to be filed and kept for the use of the said Corporation, and an entry thereof shall be made in a book or books to be kept by the said clerk for that purpose, for which no more than two shillings and six pence currency will be paid, and the said clerk is hereby required to make such entry accordingly, and until such duplicate of such deed shall be so delivered unto the said Committee and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said Railroad, or any interest for his share paid unto him, her, or them, or any vote as a member or members.

17. Every transfer of the said shares shall be in the form or to the purport and effect following, that is to say:—

“ I, A. B. in consideration of the sum of paid to me by C. D. do hereby bargain, sell, and transfer to the said C. D. his; (her or their) executors, administrators, or assigns. share (or shares) in the undertaking of the Saint Andrews and Quebec Railroad Company, to hold to him the said C. D. his heirs, executors, administrators, and assigns, subject to the said rules and orders, and on the same conditions that I held the same immediately before the execution hereof; and I the said C. D. do hereby agree to accept the said share (or shares) of the said undertaking, subject to the same rules, orders, and conditions. Witness our hands and seals the day of in the year of our Lord one thousand eight hundred and ”

18. It shall be lawful for the said Corporation, and they are hereby authorized and required from time to time to nominate and appoint a Treasurer or Treasurers and a Clerk or Clerks to the said Corporation, and to take sufficient security for the due execution of their respective offices as the said Corporation shall think proper, and from time to time to remove any such Treasurer or Clerk and appoint others in their place and stead, which said Clerk or Clerks shall in a proper book or books to be provided for that purpose, enter and keep a true and perfect account of the name and places of abode of the several members of the said Corporation, that is to say, of the several persons who shall from time to time become owners and proprietors of or entitled to any share or shares therein; and of all the other acts, proceedings, and transactions of the said Corporation and of the said Directors under the authority of this Act; and whenever any such Clerk or Treasurer shall die or be removed from or quit the service of the said Corporation, it shall be lawful for the said Directors, or a majority thereof, to appoint some other fit person in the place of the Treasurer or Clerk so dying, removed, or quitting such service, until the next general meeting, at which such appointment (if deemed proper) shall be confirmed, or another Treasurer or Clerk appointed by the said Directors.

19. So soon as the said Railroad shall be completed and opened, or any part thereof, it shall be lawful for the said Corporation at all times thereafter to ask, demand, take, and recover to and for their own proper use and behoof such rates, tolls, or dues for any passenger conveyed and carried at the

cost and charge of the said Corporation upon the said Railroad, and for every ton of goods, chattels, wares, and merchandise of any kind whatsoever so conveyed and carried upon the said Railroad, such sum or sums of money as the said Corporation may think just and reasonable; provided always, that if after the expiration of ten years from the time of completing the said Railroad, the rates, tolls, or dues that may be established by the said Corporation under and by virtue of this Act should be found excessive, it shall and may be lawful for the Legislature to reduce the said rates, tolls, or dues, so as that the same shall not produce to the said Corporation a greater rate of net profit upon their capital stock than twenty five pounds annually for every hundred pounds of such capital stock; and in order that the true state of the affairs of the said Corporation shall be known, it shall be the duty of the President and Directors thereof to produce and lay before the several branches of the Legislature of this Province at the expiration of ten years after the said Railroad shall have been completed as aforesaid, a just and true statement and account of the moneys by them disbursed and laid out in making and completing the said Railroad in manner aforesaid, and also of the amount of tolls and revenues of the said Railroad, and of the annual expenditure and disbursements in maintaining and keeping up the same during the said ten years; the said several accounts and statements to be signed by the President and Treasurer of the said Corporation, and by such President and Treasurer attested to on oath before any one of His Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the President and Directors of the said Corporation once in each and every year after the expiration of the said ten years to lay before the several branches of the Legislature a like statement and account verified on oath by the said President and Treasurer as aforesaid.

20. The said several rates and dues shall be paid to such person or persons at such place or places near to the said Railroad, or within the said line or any intermediate space thereof, and in such manner and under such regulations as the said Corporation shall direct and appoint; and in case of refusal or neglect of payment of any such dues or rates, or any part thereof,

on demand to the person or persons appointed to receive the same as aforesaid, the said Corporation may sue for and recover the same in any Court having jurisdiction to the amount of the sum to which such rates or dues shall amount ; or the person or persons to whom the same ought to be paid may and he is and they are hereby empowered to seize and detain such goods, chattels, wares, and merchandise, for and in respect whereof such rates or dues ought to be paid, and detain the same until payment shall be made ; provided that if payment of the said rates or dues shall not be made within three days after such seizure as aforesaid, the said goods and chattels shall be sold at public auction, and after deducting the said rates or dues, costs and charges, the surplus (if any) to be returned to the owner or owners.

21. The said Corporation shall within six calendar months after any land shall be taken for the use of the said Railroad, at their own proper costs and charges, divide and separate, and keep constantly divided and separated the said Railroad and the ground taken therefor or occupied by the said Corporation under the authority of this Act, from the adjoining lands or grounds, by posts and rails, hedges, ditches, trenches, banks, or other fences, sufficient to keep out sheep and other cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in them as aforesaid, and shall at their own proper cost and charges from time to time maintain and support the said posts, rails, hedges, ditches, trenches, banks, and other fences erected, set up, and made as aforesaid, and also shall at their own charges make, erect, set up such and so many convenient gates, stiles in and over all the hedges and fences to be by them so made on the side of such Railroad as aforesaid, and also such bridges, arches, and passages over, under, or across the said Railroad, and the land so taken and occupied as aforesaid, and of such dimensions as may be necessary and effectual for the owners and occupiers of the lands or grounds adjoining to the said Railroad ; and the said Corporation shall not make the said Railway to any trench or water course, or any work connected with the said Railroad or any part thereof, in or across any common highway, public bridleway, or footpath, until they shall at their own proper charges have made and perfected such bridges, passing

places, or arches over, across, or under the places where the said Railroad, trenches, or water courses, or other works respectively, shall be intended to be made for such road, way, or path, and of such dimensions and in such manner as may be found proper and effectual; and all such gates, stiles, bridges, arches, and other works and conveniences so to be made, shall from time to time be supported, maintained, and kept in sufficient repair by the said Corporation.

22. When and so often as it shall be necessary to cut into any highway in order to conduct the said Railroad across or through the same, the said Corporation shall in the first place make a temporary road passing round and avoiding that part of the highway which is to be crossed by the said Railroad, but as nearly in the line of the said highway as shall be possible, and such temporary road shall be made as good and as convenient for carriages in all respects as the highway so to be crossed or passed, or by carrying the said Railroad on a good and sufficient viaduct over the said highway, and shall be kept in the same state of repair during the whole time the former highway shall remain obstructed, and the said Corporation shall then proceed with all possible dispatch to carry the said Railroad across the said highway, and after having done so shall restore to the said highway its former direction by continuing it across the said Railroad either on a level with the top of the rail thereof, or by means of a sufficient and commodious bridge over the said Railroad having a rise on the roadway of not more than one foot in eighteen; and the said Corporation is hereby authorized and empowered to enter into and take, hold and use, or to occupy for a limited time, any land or grounds necessary for carrying the provisions of this Section into effect, under the provisions of this Act, with respect to the taking, holding, and using or occupying of other lands or grounds necessary for making and completing the said Railroad, and in addition to the extent of land which they by the other Sections of this Act are empowered to take for the said purpose, any thing in this Act to the contrary notwithstanding.

23. If the said Railroad shall cross and divide the lands of any person or persons so as to cut off that free communication which before existed from the said land and any highway, in

such case the said Corporation shall make and maintain a crossing place, viaduct, or bridge as might be used under the provisions of the preceding Section for passing any highway, within half a mile of each and every land so divided, and shall make and maintain a good and sufficient road twenty five feet wide, (passing close to the fence dividing the said Railroad from the neighbouring lands, from which such road shall also be divided by a fence made and kept in repair by the said Corporation) from each end of the said crossing place, viaduct, or bridge, to each detached portion of every land so divided, so that the proprietors of such lands may have the power of passing from the said land to the said highway as they had before the said Railroad was made; and the said Corporation is hereby empowered to take, hold, and use, under the provisions made by this Act with respect to the taking, holding, and using any other lands or grounds necessary for making and completing the said Railroad, so much land as may be necessary for carrying the provisions of this Section into effect, and in addition to the extent of land which they are by the other Section of this Act empowered to take for the said purpose, any thing in this Act contained to the contrary notwithstanding.

24. The several and respective persons united into a Corporation as aforesaid for making the said Railroad and other works as aforesaid, shall and they are hereby severally required to pay the respective sums which may be by them subscribed, to be advanced as aforesaid, towards making and completing the said Railroad and other works, or such portion of such sum as shall from time to time be called for by the said Corporation by virtue of the powers and directions of this Act, and also all persons who may hereafter subscribe and agree to advance and pay any money for the purposes aforesaid, are hereby required to pay the sum or sums of money which shall be by them respectively subscribed to be advanced, or such portion or portions thereof as shall from time to time be called for by the said Corporation, by virtue of the powers and directions of this Act, and in case any of the said several and respective persons who may have subscribed or who shall hereafter subscribe to advance and pay any sum or sums of money as aforesaid, shall neglect or refuse to pay the same at such time and times as shall be required by the said Corporation as

aforesaid, then and in such case it shall be lawful for the said Corporation to sue for and recover the same in any Court of Law having competent jurisdiction.

25. Repealed by 10th Vic. cap. 27. *See post. page 294.*

26. If any person or persons shall wilfully, maliciously, and to the prejudice of the said Corporation, break, throw down, damage, or destroy any wharf, bridge, fence, rail, support, engine, machine, machinery, or other works or device erected, constructed, or possessed under the authority of this Act, or do any other wilful act, hurt, or mischief, to disturb, hinder, or prevent the carrying into execution, making, completing, supporting, maintaining, and using the said Railroad and other works, every such person or persons so offending shall forfeit and pay to the said Corporation the value of the damage proved by the oath of two or more credible witnesses to have been done, and such damage and the costs of suit in that behalf incurred, to be recovered by action in any Court of Law in this Province having jurisdiction to the amount of the sum demanded as damages, and in case of default of payment such offender or offenders against whom judgment shall in such behalf have been rendered, shall be committed to the common gaol for any time not exceeding three months, at the discretion of the Court by whom such judgment shall have been given, and shall also be liable to the punishment prescribed for felony in an Act made and passed in the first year of the Reign of His present Majesty, intituled *An Act for the improving of the administration of justice in criminal cases.*

27. If any suit shall be brought or commenced against any person or persons for any thing alleged to be done under the authority of this Act, or in execution of the powers and authorities, orders and directions, hereinbefore given, granted, or enacted, every such suit shall be brought or commenced within six calendar months next after the offence was committed, or in case there shall be a continuation of damages then within six calendar months next after the doing or committing of such damages shall cease, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereon, and that the same was done under the authority of this Act, and if it shall appear to have been

so done, or if any action or suit be brought or commenced after the time hereby limited for the bringing or commencing the same, or if the plaintiff or plaintiffs shall become non-suit or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if judgment shall be given against such plaintiff or plaintiffs, the defendant or defendants shall have full costs and such remedy for the same as any defendant or defendants hath or have for costs of suit in other causes in law.

28. The Directors of the said Corporation shall make yearly dividends of the tolls, income, and profits arising to the said Corporation, first deducting thereout the annual costs, charges, and expenses of the said Corporation, as well for the repairs of the works belonging to them as for the salaries and allowances to their several officers and servants, and for such other purposes connected with the said Corporation as may be deemed proper by the said Directors.

29. The joint stock or property of the said Corporation shall alone be responsible for the debts and engagements of the said Corporation, and no person or persons who shall or may have dealings with the said Corporation shall on any pretence whatsoever have recourse against the separate property of any individual member or members of the said Corporation, or against their person or persons, further than is herein specially provided, and that may be necessary for the faithful application of the funds of this Corporation.

30. Any joint Committee hereafter to be appointed by the Honorable the Legislative Council and the House of Assembly for the purpose of examining into the proceedings of the said Corporation, shall either during the Session or prorogation of the General Assembly have free access to all the books and accounts of the same.

31. The said Corporation shall not directly or indirectly deal or trade in buying or selling gold or silver coins, or bills of exchange, or in lending money by way of discount, or engage in any Banking operations whatsoever.

7th WILLIAM 4th—CHAPTER 38.

An Act to amend an Act to incorporate the Saint Andrews and Quebec Railroad Company.

Section.

1. Repeal in part of Section.

Section.

2. When first general meeting to be held.

Passed 1st March 1837.

Be it enacted, &c.—1. So much of the twelfth Section of an Act passed in the sixth year of His present Majesty's Reign, intituled *An Act to incorporate the Saint Andrews and Quebec Railroad Company*, as requires that two hundred and fifty thousand pounds of the capital stock of the said Corporation shall have been actually subscribed for before the holding of the first general meeting of the said Corporation at Saint Andrews, be and the same is hereby repealed ; and in lieu thereof,—

2. The first general meeting of the said Corporation shall be held in Saint Andrews, in the County of Charlotte, as soon as twenty five thousand pounds of the capital stock of the said Corporation shall have been actually subscribed for, any thing in the said recited Act to the contrary notwithstanding.

10th VICTORIA—CHAPTER 27.

An Act further to amend and extend the provisions of an Act intituled *An Act to incorporate the Saint Andrews and Quebec Railroad Company*.

Section.

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| <p>1. Repeal of part of Section ; when may commence operations.</p> <p>2. When Railroad to be completed.</p> <p>3. Interest on shares, how paid till construction of Road.</p> <p>4. Certificate of shares, when evidence.</p> <p>5. Transfer of shares, when not allowed.</p> <p>6. Interest, when charged on calls in arrear.</p> <p>7. Register of shares, when evidence.</p> <p>8. When construction of Road may be proceeded with.</p> <p>9. When may make Branch Railroads, build Steamers, &c.</p> <p>10. Statement of expenses, &c. when and where to be filed.</p> <p>11. Purchase of Railway, when may be made by Government.</p> | <p>Section.</p> <p>12. Mails, &c. when and how may be forwarded.</p> <p>13. Compensation for carrying Mails, how fixed.</p> <p>14. Arbitrators, &c how nominated.</p> <p>15. Government, when may erect Telegraph line on line of Railroad.</p> <p>16. When no dividend to be paid.</p> <p>17. When junctions may be made with other Railways.</p> <p>18. Places of deposit for sums paid on shares.</p> <p>19. What conveyances bound to provide for Troops, &c</p> <p>20. How rate of tolls may be varied.</p> <p>21. Bye Laws, when may be enforced.</p> |
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Passed 23rd March 1847.

Be it enacted, &c.—1. So much of the third Section of an Act made and passed in the sixth year of the Reign of His late Majesty William the Fourth, as requires ten thousand shares of the capital stock to have been actually subscribed for before

the said Corporation be authorized and empowered to make and construct a single or double line of Railroad from Saint Andrews to the Boundary Line of Lower Canada, be repealed; and that the said Corporation be and they are hereby authorized and empowered to proceed in the making and construction of the said Railroad, in every respect as is provided by the said Act, when two thousand shares shall have been actually subscribed for.

2. The twenty fifth Section of the above recited Act be and the same is hereby repealed; and in lieu thereof, the said Corporation, to entitle themselves to the privileges, benefits, and advantages to them granted by the above recited Act, and by this Act, shall and they are hereby required to make and complete the said Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, within ten years from the passing of this Act; and if the same shall not be so made and completed within the period before mentioned, so as to be used for the conveyance and carriage of passengers, goods, chattels, wares, and merchandise thereon, then the above recited Act, and this Act, and every matter and thing therein respectively contained, shall cease and be utterly null and void.

3. It shall be lawful for the Directors of the said Corporation, until the said Railway shall be completed and opened to the public, to pay interest at any rate not exceeding six pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid; such interest to accrue and be paid at such times and places as the said Directors shall appoint for that purpose; provided always, that no interest shall accrue to the proprietor of any share upon which any call shall be in arrear in respect of such shares, or any other share to be holden by the same proprietor, during the period while such call shall remain unpaid.

4. The certificate of the proprietorship of any share in the said Company shall be admitted in all Courts as *prima facie* evidence of the title of any shareholder, his executors, administrators, successors, or assigns, to the share therein specified; provided nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

5. No shareholder shall be entitled to transfer any share after any call shall have been made in respect thereof, until he or she shall have paid all calls for the time being due on every share held by him or her.

6. If before or on the day appointed for payment, any shareholder do not pay the amount of any call for which he is liable, then such shareholder shall be liable to pay interest for the same, at the rate allowed by law, from the day appointed for the payment thereof to the time of actual payment.

7. The production of the Register of shareholders shall be *prima facie* evidence of any defendant being a shareholder, and of the number and amount of his shares.

8. So soon as fifty thousand pounds of the capital stock of the said Company shall have been subscribed, and the deposit of two pounds ten shillings per share shall have been actually paid, it shall be lawful for the said Corporation, and they are hereby authorized and empowered to proceed to the construction of the said Railroad, as is provided in and by the third Section of the above recited Act.

9. The said Company shall and may (if they deem it expedient) make Branch Railways or extensions to every or any part of the Province, and manage such Branch Railways, and procure and own such Steamboats or Vessels as may be necessary to ply in the Waters of the River Saint Croix, or in the Bay of Fundy, or either of them, in connexion with the said Railway, and for that purpose shall exercise and possess all the powers, privileges, and authorities necessary for the management of the same, in as full and as ample a manner as they are hereby authorized to do with respect to the said Railway.

10. In order that the true state of the said Corporation shall be known, it shall be the duty of the President and Directors to file in the Office of the Secretary of the Province, for the information of the Legislature, at the expiration of seven years after the said Railway shall have been completed as aforesaid, a just and true statement and account of the moneys by them disbursed and laid out in making and completing the said Railway in manner aforesaid, and also of the amount of tolls and revenues of the said Railway, and of the annual expenditure and disbursements in maintaining and keeping up the same.

during the said seven years; the said several accounts and statements to be signed by the President and Treasurer of the said Corporation, and by such President and Treasurer attested to on oath before any one of Her Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the said President and Directors of the said Corporation, once in each and every year after the expiration of the said seven years, to file in the said Office of the Secretary of the said Province, for the information of the said Legislature, a like statement and account, verified by the President and Treasurer aforesaid.

11. Whatever may be the rate of divisible profits on the said Railway, it shall be lawful for Her Majesty's Government, if it shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the term of twenty one years, to purchase the said Railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of Her Majesty, upon giving to the said Company three calendar months notice in writing of such intention, and upon payment of a sum equal to twenty five years purchase of the annual divisible profits, estimated on the average of the seven then next preceding years; provided that if the average rate of profits for the said seven years shall be less than the rate of fifteen pounds in the hundred, it shall be lawful for the Corporation, if they should be of opinion that the said rate of twenty five years purchase of the said average profits is an inadequate rate of purchase of such Railway, reference being had to the profits thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said Corporation; provided also, that such option of purchase shall not be exercised except with the consent of the Corporation, while any such revised scale of tolls, fares, and charges shall be in force.

12. It shall be lawful for the Postmaster General, or his chief Deputy in this Province, by notice in writing under his hand, or under the hand of such Deputy as aforesaid, delivered to the said Company, to require that the Mails or Post Letter Bags shall from and after the day to be named in such notice, (being not less than twenty eight days from the delivery thereof) be conveyed and forwarded by the said Company on

their Railway, either by the ordinary trains of carriages, or by special trains, as need may be, at such hours or times in the day or night, as the Postmaster General or his said Deputy shall direct, together with the guards appointed and employed by the Postmaster General or his said Deputy, in charge thereof, and any other officers of the Post Office ; and thereupon the said Company shall from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on the said Railway for the conveyance of such Mails and Post Letter Bags, to the satisfaction of the Postmaster General or his said Deputy, and receive and take up, carry or convey, by such ordinary or special trains of carriages, or otherwise as need may be, all such Mails or Post Letter Bags, as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the Post Office, and also receive, take up, carry, and convey in and upon the carriage or carriages carrying such Mail or Post Letter Bags, the guards in charge thereof, and any other officer of the Post Office ; and shall receive, take up, deliver, and leave such Mails or Post Letter Bags, guards and officers, at such places in the line of such Railway, on such days, and such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times, and durations of stoppages, and times of arrival, as the Postmaster General or his said Deputy shall in that behalf from time to time order or direct ; provided always, that the rate of speed so required shall in no case exceed the maximum rate of speed prescribed by the Directors of the said Company for the conveyance of passengers by their first class train, nor shall the Company be responsible for the safe custody or delivery of any Mail Bags so sent.

13. The said Company shall be entitled to such reasonable remuneration to be paid by the Postmaster General or his Deputy, for the conveyance of such Mails, Post Letter Bags, Mail guards, and other officers of the Post Office, in manner required by such Postmaster General, his Deputy, or by such other officer of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster General or his Deputy, and the said Company ;

or, in case of difference between them, the same shall be referred to the award of two persons, one to be named by the Postmaster General or his Deputy, and the other by the said Company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first named persons previously to their entering upon the enquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

14. In all references to be made under the authority of this Act, the Postmaster General, his Deputy, or the said Company, as the case may be, shall nominate his or their arbitrators within fourteen days after notice from the other party, or in default, it shall be lawful for the arbitrator appointed by the party giving notice, to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first named arbitrators, who shall in like manner proceed and make his award within twenty eight days, or in default be superseded, and so *toties quoties*.

15. The said Company, on being required so to do by Her Majesty's Government, shall be bound to allow any person or persons duly authorized by Her Majesty's Government, with servants and workmen, at all reasonable times, to enter into or upon the lands of the said Company, and to establish and lay down upon such lands adjoining the line of the said Railway, or any of its branches or extensions, a line of Electrical Telegraph for Her Majesty's Service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending Messages on Her Majesty's Service, subject to such reasonable remuneration to the Company as may be agreed upon between the Company and Her Majesty's Government; provided always, that subject to a prior right of use thereof for the purposes of

Her Majesty, such Telegraph may be used by the Company for the purposes of the Railway, upon such terms as may be agreed upon between the parties, or, in the event of differences, as may be settled by arbitration.

16. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable, shall have been paid.

17. If any other Railway Company, incorporated by law, shall build and construct any other Railway from any place or places in the Province, it shall be lawful for the said Railway Company so building and constructing the said other Railway, to form a junction with the main trunk, or any branch or extension thereof which may be built and constructed by the said Saint Andrews and Quebec Railroad Corporation, at such point or points, place or places, as may be desired or considered most advantageous by such Railway Company; and the said Saint Andrews and Quebec Railroad Corporation shall convey and transport all passengers, goods, chattels, and merchandise of every kind, so arriving at the said junction, onwards and backwards at all convenient and usual times, on the said trunk or any branch thereof, without any unnecessary delay or hindrance, to their respective destinations, subject to the payment of such rates, tolls, or dues per mile as may be paid in similar cases to the said Saint Andrews and Quebec Railroad Corporation.

18. All persons taking shares as aforesaid, shall or may deposit the said sum of two pounds ten shillings per share, either in the Bank of British North America in England, or any of its Branches in the British North American Colonies, or such other Bank or Banks in London or elsewhere in Great Britain, and in the said British North American Colonies, as the Directors of the Corporation, or the Committee or Committees corresponding with those in Great Britain, or in any of the said Colonies, shall from time to time appoint for that purpose.

19. The Directors of the said Railroad shall be bound to provide such conveyance as aforesaid for the said Military, Marine, and Police Forces, at such time or times (whether the same shall be the usual hours of starting trains or not) as shall be required or appointed by any officer duly authorized for that purpose.

20. The Directors of said Corporation, subject to the provisions and limitations herein or in the said recited Act contained, shall have power from time to time to alter or vary the toll by the said recited Act, or this Act, authorized to be taken either upon the whole or upon any particular portions of the said Railroad, or its branches or extensions, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of Railroad under the same circumstances, and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular Company or person travelling upon or using the Railway; and it shall not be lawful for the Directors of the said Corporation at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the said recited Act authorized to demand; and upon payment of the tolls from time to time demandable, all Companies and persons shall be entitled to use the Railroad with engines and carriages, properly constructed as by this and the said recited Act directed; subject, nevertheless, to the provisions and restrictions of the said recited Act, and of this Act, and to the regulations to be from time to time made by the Corporation by virtue of the powers in that behalf hereby and by the said recited Act conferred upon them.

21. No bye laws, orders, rules, and regulations made under and by virtue of the power and authority of the hereinbefore recited Act, shall be of any force or effect until one calendar month after a true copy of such bye laws, orders, rules, or regulations, certified under the hand of the President of the said Company, shall have been laid before the Lieutenant Governor or Administrator of the Government in this Province for the time being, for his approval or disapproval; unless the Lieutenant Governor or Administrator of the Government shall, before such period, signify his approbation of the same.

10th VICTORIA—CHAPTER 84.

An Act to facilitate the making of a Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, and Branches thereof.

Section.

1. Corporation, what lands may be granted to enter upon, and for what.
2. What lands may be granted to, and for what other purposes.
3. When Grants, &c., revert to the Crown.

Section.

4. Repealed.
5. What amount of interest faith of Province pledged for.
6. When Warrant may issue for.
7. Suspending clause.

Passed 23rd March 1847.

WHEREAS the facilities for travelling and the transportation of goods afforded by Railroads are necessary to the development of the agricultural, manufacturing, and commercial resources of the Province, and the introduction of population and capital from abroad : And whereas private Companies, organized for the purpose of constructing Railroads, are entitled, by the public advantages accruing from their labours, to Legislative encouragement ; and the Company incorporated by an Act of the General Assembly made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to incorporate the Saint Andrews and Quebec Railroad Company*, is desirous to proceed immediately to construct that part of the contemplated Quebec and Saint Andrews Railroad which may lie between Saint Andrews and Woodstock ;—

Be it therefore enacted, &c.—1. His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, be and he is hereby authorized and empowered to grant unto the Saint Andrews and Quebec Railroad Company, and the said Company are hereby invested with the right, by their agents, servants, and workmen, to enter and go in and upon the Crown Lands lying in the route or line of the contemplated Railroad from Saint Andrews to Quebec, or of any of its Branches, for the purpose of making examinations, surveys, and other necessary arrangements ; and also for the construction and repair of that part of the said contemplated Railroad which may lie between Saint Andrews and Woodstock, and the Branches connected therewith, its several station houses and depots, and for fuel for the use of the engines, station houses, and depots, belonging to the said

part of the said contemplated Railroad, and the said Branches, to dig for, take, remove, and use any earth, gravel, stone, timber, wood, or other matter under, on, or from the Crown Lands contiguous to the Railroad.

2. It shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent aforesaid, and he is hereby fully authorized and empowered to grant unto the said Company, without pecuniary consideration, from the vacant Crown Lands, a belt or strip of such parts of the Crown Lands as the said part of the said contemplated Railroad, and the said Branches, may pass over and through; the said belt or strip to extend two hundred feet on both sides of the track of the Railroad, measured from the centre thereof; and also additional pieces or parcels of land severally not exceeding four hundred feet in length, and three hundred feet in breadth, measured along and at right angles to the line of the said belt or strip of land, at such points, and at distances from each other not less than ten miles, as may be necessary, and the said Company may select and determine.

3. Provided always, if the said part of the said contemplated Railroad shall not be completed and in full operation within the space of ten years from the time this Act shall come into operation, all and every the said grants of land, and the right and privileges conferred by this Act, shall be utterly null and void, and the land and privileges shall revert to and revest in Her Majesty, as fully as if no grant had been made, or rights or privileges conferred.

4. Repealed by 11th Vic. cap. 63. *See post. page 310.*

5. And in order to encourage the investment in the said undertaking of private capital from abroad;—From and after the time when the said part of the said contemplated Railroad shall be completed and in efficient operation, with substantial and sufficient locomotive cars, carriages, and other vehicles propelled by steam, for the accommodation of passengers and the transportation of merchandise, the faith and credit of this Province shall stand pledged, and the same is hereby pledged to the said Company, to make up and pay any deficiency of the clear profits arising from the traffic of merchandise and passengers, and otherwise, on the said part of

the said contemplated Railroad, and the said Branches, whereby the said Company may realize a less annual profit or interest than five per centum on such capital sum, not exceeding one hundred thousand pounds, as may be invested in the said undertaking.

6. When and for each and every year during the continuance of this Act, not exceeding ten years, that it shall be certified by persons appointed for that purpose by His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent aforesaid, that the said part of the said contemplated Railroad has been in efficient operation as aforesaid, for the period of one year from the date of its being finally opened, (or from the date of the next previous certificate in each year after the first year) and that for the year for which the certificate is granted the whole net proceeds and earnings of the said Company from the said traffic on the said part of the said contemplated Railroad, after all actual and necessary contingent and annual expenses have been deducted, are insufficient to cover and pay the said annual profit or interest of five per centum on the capital sum, not exceeding one hundred thousand pounds, invested as aforesaid, and are deficient in a certain sum to be specified in the certificate of the persons to be appointed as aforesaid, it shall and may be lawful for His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent aforesaid, to issue a Warrant under his hand and seal, on the Provincial Treasury, for the payment to the said Company of the sum so certified to be deficient ; which Warrant the Treasurer of the Province is hereby required to pay in the regular course out of the moneys then in the Treasury, or as payments may be made at the same ; provided always, that unforeseen casualties, by which temporary suspensions of the traffic of and travelling on the said part of the said contemplated Railroad, not involving neglect on the part of the said Company, shall not be deemed sufficient to authorize the persons so appointed as aforesaid to withhold their certificate, and thereby prevent the payment of the sum necessary to make up such deficiency as aforesaid that may occur in the year in which the casualties may take place ; it being the true intent

and meaning of this Act, that the said Company shall realize and receive as a clear profit, arising from the net profits, or from the net profits and sum to be paid by the Province jointly, a rate of interest equal to five per centum on such capital sum, not exceeding one hundred thousand pounds, as may be invested in the said part of the said contemplated Railroad, and its said Branches, during each and every year, not exceeding ten years in the whole, that the said part of the said contemplated Railroad shall be in efficient operation as aforesaid.

7. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto first had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 20th day of May 1847, and published and declared in the Province the 23d day of June 1847.]

11th VICTORIA—CHAPTER 43.

An Act to empower and authorize the Justices of the Peace for the County of Charlotte to lease a certain piece of Common Land in the Parish of Saint Andrews, and to invest the proceeds towards the support of the Poor of the said Parish.

Section.—1. What land, and how Justices of Charlotte may lease to Corporation.

Passed 30th March 1848.

WHEREAS a certain piece of land situate in the Parish of Saint Andrews, in the County of Charlotte, was granted by Letters Patent under the Great Seal of this Province to the Justices of the Peace for the County of Charlotte, in trust for the benefit of the inhabitants of the Town of Saint Andrews, which said piece of land contains ninety eight acres, and is situated at the south east end of the Town Plat of Saint Andrews, and is known as part of the Commons of the said Town: And whereas the Saint Andrews and Quebec Railroad Company are desirous of leasing a part of the said Commons;—

Be it therefore enacted, &c.—1. The said Justices of the Peace for the County of Charlotte be and they are hereby authorized and empowered, by a good and sufficient Lease, to grant and to farm let such part, not exceeding twelve acres,

of the hereinbefore described tract or parcel of land, as they in their discretion may think fit, for any term not exceeding twenty one years, and to appropriate the proceeds arising therefrom towards the support of the poor of the said Parish of Saint Andrews; provided always, that such Lease shall be made only to the Quebec and Saint Andrews Railroad Company for the purposes of such Railroad.

11th VICTORIA—CHAPTER 48.

An Act in addition to and amendment of an Act further to amend and extend the provisions of an Act intituled *An Act to incorporate the Saint Andrews and Quebec Railroad Company.*

Section.

1. Damages, &c. for land taken, how determined.
2. Repealed.
3. If Directors not chosen on specified day, when to be chosen; vacancies how supplied.
4. Class A Shareholders, what number of shares entitled to hold.

Section.

5. What may assign to Class A.
6. Troops, when to be conveyed on line, and conditions.
7. Telegraph of Corporation, how Government to use.
8. Bye Laws of Corporation, how disallowed.

Passed 30th March 1848.

Be it enacted, &c.—1. In determining the amount of damages or compensation to be paid by the said Saint Andrews and Quebec Railroad Company to the proprietors or occupiers of any land or premises which the said Company may require for the purposes of the said Railroad, or which may be damaged in any way by the construction of the same, regard shall be had to the value of such land or premises before the present year, and not to the increased value which the construction of the said Railroad will occasion, and that such damages or compensation, in case of disagreement, shall be ascertained and determined in such manner and form, and by such ways and means, as shall be directed and prescribed by any Act now in force or to be passed at the present or any future Session of the General Assembly of this Province.

2. Repealed by 12th Vic. cap. 60. *See post. page 310.*

3. If it should so happen that the said Directors or other officers in the said Saint Andrews and Quebec Railroad Company should not be chosen on the first Tuesday in May in any year, as directed by the Act of Assembly incorporating the said Company, made and passed in the sixth year of the Reign of

His late Majesty William the Fourth, that then it shall and may be lawful to choose such Directors and officers on any other day, between the hours of twelve at noon and three in the afternoon of such day, on giving fourteen days notice of the time and place of such meeting in the Royal Gazette or other Newspapers published in Fredericton, also in one of the Newspapers published in the City of Saint John, and also in one or more Newspapers, if any, published in Saint Andrews ; and in case any Director shall be removed by the stockholders for misconduct or mal-administration, his place shall be filled up by the stockholders, fourteen days notice being in like manner given of the time and place of meeting for such purpose ; and in case of any vacancy among the Directors by death, resignation, or disqualification by sale and transfer of stock, then and in either of such cases the said Directors shall and may fill up such vacancy, by choosing one of the stockholders, duly qualified, in his stead ; and the person so chosen by the stockholders or Directors, shall serve until another be chosen in his room, any thing in the hereinbefore mentioned Act incorporating the said Company to the contrary notwithstanding.

4. And whereas four thousand shares of the capital stock of the said Saint Andrews and Quebec Railroad Company have been set apart by the said Company for shareholders in the United Kingdom, and a portion of such shares have already been subscribed and a deposit paid thereon by noblemen and gentlemen there resident : And whereas the said Company are desirous of creating a distinction between the shares held in the United Kingdom and the other shares in the said Company, and of yielding certain privileges and advantages to the shares held in the said United Kingdom ;—Four thousand shares in the said Company shall and may be set apart by the Directors of the said Company for shareholders in the United Kingdom, to be designated as shares in Class A, and shall be numbered consecutively from number one to number four thousand inclusive, in the said Class A ; and that all other shares in the said Company shall be designated as Class B, and shall be numbered consecutively from number one to such number of shares as may be subscribed for or issued by the said Company.

5. The Directors of the said Company shall and may have

power to assign and transfer to the holders of shares in Class A, the whole or any part of any guarantee of interest, grant of money or lands, or other benefit, profit, or advantage, which now, hath been, or hereafter may be granted, conceded, or allowed to the said Company by Act of Assembly in this Province, or otherwise howsoever; and that for the more effectually carrying out and perfecting the said assignment or transfer, or more than one if necessary, the Directors of the said Company shall have power to establish an agency in London for the transaction of business with reference to the said shares in Class A, subject to such rules and regulations as shall be prescribed by the bye laws of the said Company.

6. Whenever it may be necessary to move any of the Officers or Soldiers of Her Majesty's Forces of the Line, Ordnance Corps, Marines, Militia, or Police Force, by the said Saint Andrews and Quebec Railway, or any of its branches, the Directors thereof shall and they are hereby required to provide conveyances for the said Military, Marine, and Police Forces respectively, with their baggage, stores, arms, ammunition, and other necessities and things, at such time or times, whether the same shall be the usual hours of starting trains or not, as shall be required or appointed by any Officer duly authorized for that purpose, at such prices and upon such conditions as may from time to time be contracted for between the Secretary at War or some Officer duly authorized for that purpose, and the said Company.

7. If a line of Electrical Telegraph shall be established by the said Company upon the line of the said Saint Andrews and Quebec Railway, or any part thereof, or upon any of its branches, otherwise than exclusively for the purposes of the said Railway, the use of such Electrical Telegraph, for the purpose of receiving and sending messages, shall be subject to the prior right of use thereof for the service of Her Majesty, and for the purposes of the said Company; and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said Company, be open for the receiving and sending of messages by all persons alike, without favour or preference.

8. It shall be lawful for the Lieutenant Governor or Administrator of the Government in this Province for the time being,

at any time either before or after any bye law, order, rule, or regulation laid before him by the said Company, shall have come into operation, to notify to the said Company his disallowance thereof, and in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force, and no bye law, order, rule, or regulation which shall be so disallowed, shall have any force or effect whatsoever, or if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been already incurred under the same.

11th VICTORIA—CHAPTER 63.

An Act to extend the provisions of an Act intituled *An Act to facilitate the making of a Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, and Branches thereof.*

Section.

1. Provincial pledge of interest, how increased.
2. For what term pledge to be increased.
3. How lots adjoining Railway may be laid out.

Section.

4. Repeal of Section of certain Act.
5. Right of Government to purchase Railroad, &c. how not abridged.
6. Suspending clause.

Passed 30th March 1848.

WHEREAS the Saint Andrews and Québec Railroad Company have actually commenced the construction of a Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, and it hath been deemed advisable further to encourage the said undertaking, and thereby lead to a more speedy completion of the work, by increasing the rate of interest on a portion of the capital sum to be invested in the undertaking, for the payment of which the faith and credit of this Province stand pledged, and to extend the period of time during which such increased interest shall be paid ;—

Be it therefore enacted, &c.—1. The rate of annual profit or interest for which the faith and credit of the Province stand pledged to the Saint Andrews and Québec Railroad Company, by the fifth Section of an Act made and passed in the tenth year of Her Majesty's Reign, intituled *An Act to facilitate the making of a Railroad from Saint Andrews in the County of*

Charlotte, to Woodstock in the County of Carleton, and Branches thereof, shall be increased from five per centum per annum, to six per centum per annum, on such capital sum, not exceeding the sum of one hundred thousand pounds, as may be invested in the undertaking aforesaid; and that the faith and credit of the Province shall stand pledged and hereby are pledged to the said Company to make up and pay any deficiency of the clear profits arising from the traffic of merchandise and passengers, and otherwise on the said described Railroad and its branches, whereby the said Company may realize a less annual profit than six per centum on the sum of one hundred thousand pounds, expended in the undertaking, agreeably to the terms, conditions, and specifications of the fifth Section of the said Act of Assembly hereinbefore mentioned.

2. The term of years during which such deficiency of annual profit or interest shall be made up and paid by this Province to the extent of six per centum per annum, on such capital sum of not exceeding one hundred thousand pounds, as shall be invested in the said undertaking, shall be extended from the term of ten years, mentioned in the sixth Section of the Act for facilitating the construction of the said Railroad hereinbefore mentioned, to the term of twenty five years; and that during the said term of twenty five years, the said deficiency, if any, shall be made good by this Province, and shall be paid to the said Company in manner and form and according to the stipulations and conditions mentioned and contained in the said sixth Section of the hereinbefore mentioned Act.

3. And for the further encouragement of the said undertaking;—On the completion of the said part of the said contemplated Railroad, it shall and may be lawful for the said Company, at their own proper costs and charges, and under the supervision of the Surveyor General of the Province, to cause a survey of the ungranted Crown Land on each side of the said Railway, between Saint Andrews and Woodstock, to be made and laid out in lots of forty rods in width, fronting on the said Railroad, and extending back a distance of one mile and a half from the said road; and it shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, and he is hereby authorized and empowered to grant in fee simple to the said Company, free from any

charge, save and except the expenses of the survey as aforesaid, every second or alternate lot on both sides of the said Railroad, not exceeding in the whole the quantity of twenty thousand acres.

4. The fourth Section of an Act made and passed in the tenth year of the Reign of Her present Majesty, intituled *An Act to facilitate the making of a Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, and Branches thereof*, be and the same is hereby repealed.

5. Nothing in this Act contained shall be construed to impair or lessen the right of Her Majesty's Government to purchase the said Railroad and its branches, and all other the property of the said Company, thereunto appertaining, on the terms and conditions contained in the eleventh Section of an Act passed in the tenth year of the Reign of Her present Majesty, intituled *An Act further to amend and extend the provisions of an Act, intituled "An Act to incorporate the Saint Andrews and Quebec Railroad Company."*

6. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto first had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 27th day of June 1848, and published and declared in the Province the 19th day of July 1848.]

12th VICTORIA—CHAPTER 60.

An Act in further amendment of the Acts relating to the incorporation of the Saint Andrews and Quebec Railroad Company.

Section.

1. Repeal of what Section.
2. Number of Directors, and how chosen.

Section.

3. President, by whom chosen; quorum; casting vote, when.
4. Duties of resident and non-resident Directors.

Passed 14th April 1849.

Be it enacted, &c.—1. The second Section of an Act made and passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act in addition to and in amendment of an Act further to amend and extend the provisions of an Act, intituled "An Act to incorporate the Saint Andrews and*

Quebec Railroad Company," be and the same is hereby repealed.

2. At every annual general meeting of the Saint Andrews and Quebec Railroad Company, it shall and may be lawful for the shareholders present and appearing by proxy, to choose by a majority of votes twenty Directors, being proprietors of at least ten shares each in the said Company; of which Directors thirteen shall be residents of and in this Province, and seven residents of and in that part of the United Kingdom called England; all which Directors, residents in England as well as in this Province, shall continue in office for one year or until others are chosen in their place.

3. The said thirteen Directors, residents of this Province, shall at their first meeting after their election choose one of their number President of the said Company; and five Directors shall form a quorum for the transaction of business, of whom the President shall always be one, except in case of necessary absence, when the Directors present may choose one of their number Chairman for the occasion; and in case of there being an equal number of votes for or against any question before the Board of Directors, the President or Chairman shall have a casting vote in addition to his ordinary vote as a Director.

4. All the powers and duties conferred and imposed upon any Board of Directors mentioned in the Act incorporating the said Company, or any Act in addition to or in amendment of such Act, shall be enjoyed, executed, and fulfilled by the said thirteen Directors residents of this Province; and that the powers and duties of the seven Directors residents of that part of Great Britain called England, shall be such as may be given, granted, and imposed on them by the said Directors resident in this Province, or by any bye law of the said Company, and the same shall be enjoyed, executed, and fulfilled by the said seven Directors under the instructions and control, immediate and final, of the said thirteen Directors, residents of this Province as aforesaid; provided always, that nothing herein contained shall affect, alter, or abridge the powers of the stockholders resident in England as individual members of the Corporation.

12th VICTORIA—CHAPTER 74.

An Act further to facilitate the making of a Railroad from Saint Andrews to Woodstock, with a Branch to Saint Stephen.**Section.**

1. What lands, and when may be granted to Corporation.
2. When certain sums expended, what special grants may be made.

Section.

3. Limitation of Act.
4. Suspending clause.

Passed 14th April 1849.

WHEREAS it is deemed advisable that further encouragement should be given to the Saint Andrews and Quebec Railway Company ;—

Be it therefore enacted, &c.—1. On the completion of a Railroad from Saint Andrews in the County of Charlotte, to Woodstock in the County of Carleton, with a Branch to Saint Stephen, in the said County of Charlotte, together with all the station houses, engines, carriages, cars, and other furniture necessary to put the same in good working condition, it shall and may be lawful for the said Company, at their own proper costs and charges, and under the supervision of the Surveyor General of the Province, to survey and lay out all the Crown Lands contiguous to and within five miles on each side of said Railroad ; which said quantity of land the said Governor or Administrator of the Government for the time being, by and with the advice of the Executive Council, shall and he is hereby empowered to grant in fee simple to the said Company, free from any charge save and except the expense of survey as aforesaid ; provided always nevertheless, that nothing in this Act contained shall extend or be construed to extend to prevent the Executive Government of this Province, if they shall see fit, from disposing of any of the land contiguous to the said contemplated line of Railroad, for actual and immediate settlement, or of disposing of the timber and logs now growing and being thereon.

2. It shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice aforesaid, on satisfactory assurance under oath of the President and Secretary of the said Company, that ten thousand pounds have been actually paid and expended in the construction of the said Railroad, to grant to the said Company in fee simple a portion of the said tract of land, not ex-

ceeding ten thousand acres, and so in like manner from time to time to grant a like quantity of land for every additional ten thousand pounds so paid and expended on the said Railroad as aforesaid; provided further, that the whole quantity of land granted shall not exceed the quantity of Crown Lands contained in the above mentioned tract, any thing herein contained to the contrary thereof notwithstanding.

3. This Act shall be and continue in force for ten years from the passing thereof, and no longer.

4. This Act shall not come into operation or be in force until Her Majesty's Royal approbation be thereunto first had and declared.

[*This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 18th day of July 1849, and published and declared in the Province the 8th day of August 1849.*]

13th VICTORIA—CHAPTER I.

An Act relating to the Saint Andrews and Quebec Railroad Company.

Section.

1. Certain Sections of Act repealed.
2. Powers of Corporation to enter on lands, &c. Compensation, how made.
3. Discharges of minors, &c. when valid.
4. Materials for Railway, how Corporation may take and pay for.
5. Certain Sections of an Act, how far repealed.
6. What number of Directors to be chosen, and when.
7. Class A Shareholders, what number of Directors to choose.

Section.

8. What covenants may be made between Corporation and Class A.
9. Common Seal of, may be used by whom.
10. What advantages may be granted to Class A.
11. What lands, &c. may charge in favour of Class A.
12. Deeds made under certain Sections of this Act, how executed.
13. Certain Acts relating to the Corporation, to what extent repealed.
14. Provincial faith, how extended to Class A.

Schedule.

Passed 26th April 1850.

Be it enacted, &c.—1. The fourth, fifth, sixth, seventh, eighth, and ninth Sections of an Act made and passed in the sixth year of the Reign of King William the Fourth, intituled *An Act to incorporate the Saint Andrews and Quebec Railroad Company*, be and the same are hereby repealed; and in lieu thereof,—

2. The said Company shall be and are hereby invested with all the powers, privileges, and immunities which are or may be necessary to carry into effect the intentions and objects of this Act; and for this purpose the said Company, their successors, deputies, agents, and assistants, shall have the right

to enter and go into and upon the lands and grounds of all and every description lying in the said route and general direction of the said Railroad, for the purpose of making surveys, examinations, or other necessary arrangements for fixing the site of the said Railroad; and it shall and may be lawful for the said Company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing, and convenient operation of the said Railroad; and shall also have the right to take, remove, and use for the necessary construction and repair of the said Railroad and appurtenances, any earth, gravel, stone, timber, or other materials on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such surveys, examinations, or other arrangements may be made, or through which the said Railroad may be explored, laid out, worked, made, and constructed, or on which materials or other things shall be laid for the purposes of the said Railroad; provided also, that the said land so taken shall not exceed six rods in width, except where greater width is necessary for the purposes of excavation or embankment; and where the said Railroad shall pass through any wood lands or forests, the said Company shall have the right to fell or remove any trees standing thereon to the distance of four rods from either side of the said Railroad, which by their liabilities to be blown down, or from their natural falling, might obstruct or impair the said Railroad; provided always, that in all cases the said Company shall pay for such land or estate so taken and used, (in case the owner thereof demand it) such price as the said Company and the owner or respective owners thereof may mutually agree on; and in case the said parties should not agree, then it shall be lawful for the said Company to apply to two of Her Majesty's Justices of the Peace in the County wherein the said lands may be situate, for a Warrant, which Warrant shall be in the form set forth in the Schedule (A) to this Act annexed, and shall be directed to the High Sheriff, his Deputy, or any Constable within the said County, commanding such High Sheriff, Deputy, or Constable to summon a jury of five disinterested freeholders or occupiers of land in the said County, who shall be sworn to examine the site of the said Railroad;

and in case the said Railroad shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such jury; provided nevertheless, that the said jury in assessing the said damages, are authorized and empowered, and shall take into consideration the enhancement in value of the land by the passage of the Railroad, in regard to the increased facilities of access to the different stations and termini of the said Railroad, in diminution of the damages; and in all cases where the jury shall assess damages to be paid to the owner or owners of any land over which the said Railroad may be laid out, the Justices who issued the Warrant shall lay the said assessments before the next annual meeting of the said Company, who are hereby required to pay the amount set forth in the said assessment into the hands of the person for whom such damages may have been assessed, within twenty one days next after such annual meeting of the said Company, together with the costs and charges of assessing such damages, which shall be agreeable to a scale in Schedule (B) of this Act, and in default of such payment, it shall and may be lawful for the said Justices, or either of them, (in case of the death or absence of the other) at the instance of the said party or parties to whom such damages are payable, by Warrant under the hands and seals of the said Justices, or of one of them, (in case aforesaid) to levy the same, with costs, by distress and sale of the goods and chattels of the said Company; provided also, that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within this Province, or to authorize the said Company to enter upon or take possession of any such land without the previous permission of the Executive Government of the Province.

3. When the said Company shall take any lands or estate of any body corporate, aggregate or sole, guardians, committees, executors, or administrators, or other trustees whatsoever, held for and on behalf of those whom they represent, whether Corporations, infants, idiots, lunatics, feme covert, persons deceased or beyond seas, or other person or persons whatsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements, and sales

of the said Corporations, guardians, committees, executors, administrators, or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor; and it shall be lawful for them respectively to agree and settle with the said Company for damages, (if any) by reason of taking such land or estate as aforesaid; and in case of disagreement, such damage to be ascertained and settled as provided by the second Section of this Act.

4. The said Company, their superintendents, engineers, agents, and workmen, may enter upon the land adjoining the said Railroad, and from thence take and carry away any timber, stone, gravel, sand, and earth, or any material necessary for the construction of the said Railroad; and in case of any slip happening or being apprehended to any cutting, embankment, or other work belonging to the said Railroad, the said agents and workmen shall at all times hereafter have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose; provided always, that such works shall be as little injurious to the said adjoining land as the nature of the operations will admit of, and shall be executed with all possible dispatch; in all which cases the damage incurred, if the parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in the second Section of this Act.

5. And whereas it is expedient to enable the Saint Andrews and Quebec Railroad Company to make further arrangements respecting their Class A shares;—The second and fourth Sections of the Act passed in the twelfth year of the Reign of Her present Majesty, intituled *An Act in further amendment of the Acts relating to the incorporation of the Saint Andrews and Quebec Railroad Company*, are so far, but so far only as is necessary to give full effect to the provisions of this Act, hereby repealed, but without prejudice to any act or thing already made or done under or by virtue of the same Sections or either of them.

6. At every annual general meeting of the Company the shareholders present and appearing by proxy may choose, by a majority of votes, thirteen Directors, who shall be distinguished

as "The Directors of the Company," being holders of at least ten shares each, and resident in this Province, and who shall continue in office for one year, or until others be chosen in their place; and the third Section of the last mentioned Act shall apply to the Directors of the Company, and except as otherwise provided by this Act, all the powers and duties conferred and imposed upon any Board of Directors mentioned in the Act incorporating the Company, or any Act in addition to or in amendment of such Act, shall be enjoyed, executed, and fulfilled by the Directors of the Company.

7. The holders of Class A shares may from time to time choose from among themselves seven Directors, who shall be distinguished as "The Directors for Class A Shareholders," and make such regulations concerning the Directors for Class A shareholders as such holders think fit.

8. The Directors of the Company, with the consent of the Directors for Class A shareholders, may from time to time by Deed, enter into such covenants, conditions, and stipulations with respect to the conduct and management of the affairs of the Company, and delegate to the holders of Class A shares and the Directors of Class A shareholders respectively, such powers and authorities with reference to the conduct and management of such of the affairs of the Company in any way affecting or likely to affect the interests of the holders of Class A shares, as may from time to time be agreed on between the Directors of the Company and the holders of Class A shares, or the Directors of Class A shareholders.

9. The common seal of the Company, or a duplicate thereof, may from time to time be used by the Directors of Class A shareholders, for such purposes and in such manner as may from time to time be agreed on between the Directors of the Company and the Directors of Class A shareholders.

10. The Directors of the Company may from time to time by Deed, grant and assure in such manner as they think fit, unto the holders of Class A shares, not only the whole or any part of any guarantee of interest, grant of money or lands, or other benefit, profit, or advantage already or to be hereafter granted, conceded, or allowed to the Company by Act of Assembly, or otherwise howsoever, but also such preferential interest or dividend, and such preferential, exclusive, or other

profits, privileges, and advantages whatsoever, and on such terms and conditions whatsoever, as the Directors of the Company from time to time think proper.

11. The Directors of the Company may from time to time by Deed, subject and charge in such manner as they think fit, the present and future lands, goods, and other property and effects, tolls, income, and profits whatsoever of the Company, on such parts thereof as the Directors may think fit, to and with the payment or other satisfaction, to the holders of Class A shares, of such interest or dividend, profits, privileges, and advantages.

12. Every Deed executed by the Directors of the Company, in accordance with the eighth, ninth, and tenth Sections respectively of this Act, shall be under the common seal of the Company, (which the Directors of the Company are hereby authorized to affix to every such Deed) and under the respective hands and seals of any three or more of the Directors of the Company; and every Deed so executed shall have as full effect and be as binding and conclusive on the Company, and the Directors of the Company, and the Directors of Class A shareholders, and the several shareholders and classes of shareholders respectively of the Company, as if the terms and provisions of such Deed were by this Act expressly enacted and made binding and conclusive accordingly.

13. The Act incorporating the Company, and the several Acts in addition to and in amendment of such Act respectively, so far as the provisions thereof respectively are repugnant to or inconsistent with any of the provisions or purposes of this Act, are hereby repealed, but in all other respects such Acts respectively, so far as the same respectively are now unrepealed and in force, shall, subject and without prejudice to the provisions and purposes of this Act, be and remain in full force.

14. The faith of this Province shall stand pledged, and the same is hereby pledged to the holders of Class A shares, that this Act, or any of the provisions thereof, or any of the rights, authorities, privileges, profits, or advantages by this Act granted or secured, or authorized to be granted or secured to or for the benefit of the holders of Class A shares, or any of them, shall not directly or indirectly be taken away, lessened, or in any way prejudicially affected by any Act of Assembly or

facility Act, without or otherwise than in accordance with the previous consent of the holders of Class A shares, to be testified by some Petition under the hands of three or more of the Directors for Class A shareholders, to the Assembly of this Province.

SCHEDULE.

(A)

Form of Warrant to summon Jury.

To the Sheriff, Deputy Sheriff, or any Constable of the County of

You are hereby commanded to summon a Jury of five disinterested freeholders of your County on the day of , at of the clock in the noon, and then and there to assess the damages (if any) which A. B. alleges he has sustained by reason of the works and operations of the Saint Andrews and Quebec Railroad Company through and upon his lands.

Given under our hands and seals the day of ,
A. D. one thousand eight hundred and .

(B)

Scale of Fees in proceedings before Justices upon assessing damages under the foregoing Act :—

To the Justices.

Warrant to summon jury, two shillings and six pence.

For every subpoena, six pence.

For every copy thereof, three pence.

Every adjournment made at the instance of the party, one shilling.

Trial and judgment, two shillings and six pence.

Swearing each witness and constable, three pence.

Swearing jury, one shilling.

Execution or distress warrant, one shilling and six pence.

To the Sheriff or Constable.

Summoning jury, five shillings.

Attendance on jury, one shilling.

For all other services same as fixed by law in civil cases before Justices of the Peace.

To Witnesses.

Attendance and travel same as in civil cases before Justices of the Peace.

To Jurors.

Each Juror sworn on inquiry, two shillings.

14th VICTORIA—CHAPTER 36.

An Act to facilitate the construction of a Railway from Saint Andrews to Quebec.

Section.

1. On what conditions Province to take stock and issue Debentures, and to what extent.
2. Debentures, description of.
3. When redeemable.

Section.

4. How certificates of shares held, and Directors appointed.
5. Application of dividends, &c. What Revenue pledged.
6. Act, when may be altered.
7. Suspending clause.

Passed 28th March 1851.

Be it enacted, &c.—1. When the shareholders of the Saint Andrews and Quebec Railroad Company shall pay into their Treasurer at least the sum of two thousand pounds sterling, and it shall be satisfactorily proved to the Lieutenant Governor in Council that such sum has been actually paid in, and is ready to be expended in the construction within this Province of a Railway from Saint Andrews to Woodstock, the Provincial Treasurer shall be authorized by the Lieutenant Governor in Council to subscribe on behalf of the Province for shares in the said Company to the like amount, and in payment therefor to deliver to the said Company special Certificates of Debt, to be called Debentures, bearing interest at a rate not exceeding six per cent. per annum, the principal money redeemable in thirty years; and so from time to time when it shall be satisfactorily proved to the Lieutenant Governor in Council that the sums theretofore subscribed and paid in by the shareholders of the said Company, and the proceeds of the Debentures previously delivered, have been expended in the construction of the said Railway, and that a further sum of at least two thousand pounds sterling has been actually paid in by the shareholders, and is ready to be expended in like manner, the Provincial Treasurer shall again be authorized to subscribe on behalf of the Province for shares in the said Company, to an equal amount with the sum so paid in and ready to be expended, and also to pay in

full for such shares by a further delivery of Debentures ; provided always, that the amount of shares in the said Company subscribed and paid for by the Provincial Treasurer in any one year shall not exceed the sum of twenty thousand pounds sterling, and in the whole shall not exceed the sum of fifty thousand pounds sterling. *Proviso repealed by 15th Vic. cap. 55.*

2. The Debentures shall be in the form in the Schedule annexed, they shall be signed and sealed by the Lieutenant Governor, and countersigned by the Provincial Treasurer ; they shall be numbered consecutively, beginning with number one, and shall be issued for such sums from one hundred to one thousand pounds sterling, as may be deemed expedient ; the interest thereon shall be paid half yearly, either in London, New York, or Saint Andrews, at the option of the holder, who shall give to the Provincial Treasurer six months notice in writing at which of the places named he wishes to receive interest on the Debentures he holds ; provided always, that whenever such interest is paid in New York, it shall be at the rate of four dollars and eighty cents for the pound sterling, and when at Saint Andrews, at twenty four shillings currency for the pound sterling.

3. The principal money of such Debentures shall be paid in full at the end of thirty years to the then holders thereof, at the same places and on the same terms as the interest is made payable.

4. The Certificates of Shares in the Saint Andrews and Quebec Railroad Company to be from time to time delivered by the Company to the Provincial Treasurer, shall be held by him for and on behalf of the Province, as public property ; and while such shares are so held no vote thereon shall be given at any meeting of the Company, nor shall there be any interference with or control over the management or business of the said Company on account thereof, by the Government ; and no interest shall be paid to or claimed by the Province on such shares in consideration of their having been paid for in full at the time of subscription. *Proviso repealed by 16th Vic. cap. 50.*

5. The dividends arising from the shares in the said Company held by the Provincial Treasurer, shall be applied toward the payment of interest on the said Debentures, and at the expiration of thirty years, when such Debentures become pay-

able, the said shares shall be sold and disposed of; and the proceeds be applied toward the payment of the same; and the faith and credit of this Province, and the ordinary revenues thereof, and the amount or proceeds of any special impost which may hereafter be levied and collected for the paying off such Railway Debentures, and the interest thereon, shall be and hereby are declared pledged to any and every holder of the same for payment of interest as it becomes due, and for payment of the principal money at the expiration of the time limited for payment of the said Debentures, as they severally fall due.

6. This Act may be altered and amended during the present Session.

7. This Act shall not come into operation or be in force until Her Majesty's Royal approbation thereof be first had and declared.

Form repealed and another substituted by 15th Vic. cap. 55.

[*This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council dated the 25th day of June 1851, and published and declared in the Province the 9th day of July 1851.*]

15th VICTORIA—CHAPTER 55.

An Act to amend the Act to facilitate the construction of a Railway from Saint Andrews to Quebec.

Section 1.—Provincial Shares Debentures on new conditions and forms.

Passed 7th April 1852.

WHEREAS it is expedient to amend an Act made and passed in the fourteenth year of Her Majesty's Reign, intituled *An Act to facilitate the construction of a Railway from Saint Andrews to Quebec*, in certain particulars;—

*Be it therefore enacted, &c. as follows:—*1. The last proviso contained in the first Section of the said recited Act, in these words—"Provided always, that the shares to be delivered to the Provincial Treasurer on account of the Province, shall be of the same class and description as those paid up by the shareholders of the Company, for the purposes of this Act," be and the same is hereby repealed; provided always, that no further Debentures shall issue under the provisions of this or the said recited Act, until it be made satisfactorily to appear to the Lieutenant Governor in Council, that a *bona fide* contract

or contracts has or have been entered into for the completion of the said Railway, from, at, or near Waweig to Woodstock in the County of Carleton; provided that the following shall be the form of Debentures referred to in the said recited Act, and Coupons shall hereafter be annexed thereto, instead of the form prescribed in the Schedule to the said Act:—

No. — PROVINCE OF NEW BRUNSWICK.

£100 Sterling Debenture.

£100 Sterling transferable.

Under the authority of the Legislature of the Province of New Brunswick.

The Government of New Brunswick promise to pay to the bearer, the sum of one hundred pounds sterling, thirty years from and after the day of , likewise the interest from the same date, at the rate of six per cent. per annum, to be paid half yearly on presentation of the proper Coupons for the same, as hereunto annexed, on the day of and the day of in each year, at the office of in London.

In testimony whereof, the Lieutenant Governor of the Province of New Brunswick, on behalf of the said Province, and by virtue of the authority vested in him by an Act of the General Assembly of the same, intituled *An Act to facilitate the construction of a Railway from Saint Andrews to Quebec*, which Act has been approved and allowed by Her Majesty, has hereunto set his Hand and affixed his Seal of Office, at Fredericton, in the Province of New Brunswick, this day of

A. D. 185 .

(Signed)

Countersigned by the }
Provincial Treasurer. }

COUPON.

PROVINCE OF NEW BRUNSWICK.

£3 Sterling.

£3 Sterling.

Half yearly interest dividend due on Debenture No. , issued under the authority of the Provincial Legislature for one hundred pounds sterling, payable at the office of in London.

In testimony whereof, the Lieutenant Governor [*and so forth, as in the preceding form.*]

16th VICTORIA—CHAPTER 50.

An Act relating to the Saint Andrews and Quebec Railroad Company.

Section.

1. Repeal of a certain Section and Act.

Section.

2. What Directors of Company to be appointed by Government.

Passed 3rd May 1853.

*Be it enacted &c. as follows:—*1. So much of the fourth Section of the Act made and passed in the fourteenth year of the Reign of Her present Majesty, intituled *An Act to facilitate the construction of a Railway from Saint Andrews to Quebec*, as authorizes the Legislative Council and Assembly, by joint Resolution, to appoint two Directors, who shall have the same power and authority as any other Directors chosen under the Act of Incorporation; together with the Act made and passed during the present Session, intituled *An Act to amend the Act to facilitate the construction of a Railway from Saint Andrews to Quebec*, be and the same are hereby repealed.

2. The Lieutenant Governor or Administrator of the Government for the time being, in Council, may and he is hereby required annually, or from time to time, as occasion shall require, to appoint two Directors in the Saint Andrews and Quebec Railroad Company, who shall have the same power and authority as any other Directors chosen by the said Company under their Acts of Incorporation; and in case of such Directors, or either of them, refusing or neglecting to act, or for other good cause, to cancel such appointment, and another or others to appoint in his or their stead.

17th VICTORIA—CHAPTER 42.

An Act relating to the Saint Andrews and Quebec Railroad Company's Contract for execution of Works.

Section 1.—Railroad Contract with Class A Shareholders declared valid in this Province.

Passed 1st May 1854.

WHEREAS a certain Indenture bearing date the twenty ninth day of April one thousand eight hundred and fifty two, made between the Saint Andrews and Quebec Railroad Company of the first part, the Class A Shareholders of the Saint Andrews

and Quebec Railroad Company of the second part, and James Sykes, John Brookfield, and George William King, of Sheffield, County of York, Railway Contractors, of the third part, for the execution of certain Works in this Province, was executed in England : And whereas in order to give legal effect in the most convenient form to the provisions of said Indenture, it is considered desirable to declare the law in regard to the construction thereof in the Courts of Law and Equity in this Province ;—

Be it therefore declared and enacted, &c.—1. The several provisions of the said recited Indenture shall be construed and deemed as valid in all respects between the said parties in all Courts of Law and Equity in this Province, as if the said Indenture had been made and executed by the several parties thereto in this Province.

31st GEORGE 3rd—CHAPTER 5.

An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery, and Fornication.

Section.

1 to 4 repealed.

5. Causes in Marriage and Divorce, before whom and how to be tried.

6. Repealed.

7. When Governor may appoint a Deputy.

Section.

8. Repealed.

9. Causes of Divorce. &c.

10. When issue not bastardized, or widow barred of dower, &c.

11. What law repealed.

1, 2, & 3. Repealed by The Revised Statutes, Cap. 162.

4. Repealed by 52nd Geo. 3rd, cap. 21.

Be it enacted, &c.—5. All causes, suits, controversies, matters, and questions touching and concerning Marriage and contracts of Marriage, and Divorce, as well from the bond of Matrimony, as divorce and separation from bed and board, and alimony, shall and may be heard and determined by and before the Governor and Commander in Chief of this Province and His Majesty's Council ; and the Governor or Commander in Chief and Council aforesaid, or any five or more of the said Council, together with the Governor or Commander in Chief as President, be and they are hereby constituted, appointed, and established a Court of Judicature in the matters and premises aforesaid, with full authority, power, and jurisdiction in the same ; provided, and it is hereby declared, that nothing herein contained shall deprive, diminish, control, obstruct, or abridge,

or be construed, deemed, or extended to deprive, diminish, control, obstruct, or abridge in any manner the rights, powers, authority, judicature, or jurisdiction of the Court of Chancery, or of the Supreme Court of Judicature, or of any Inferior Court of this Province, in and touching the matters and premises aforesaid, or any of them; and no sentence, decree, judgment, or proceeding of the said Court of Governor or Commander in Chief and Council, in any information, prosecution, suit, or process, touching and concerning any Marriage or contract of Marriage, or Divorce, or alimony, shall take away, annul, bar, suspend, or in any wise alter or affect the right of action of any person or persons, for any injury or damage sustained for or by reason of any breach of any covenant or contract of Marriage.

6. Repealed by 6th Wm. 4th, cap. 34. *See post. page 329.*

7. And whereas the arduous affairs of Government may render it impossible for the Governor or Commander in Chief at all times to preside in person in the Court aforesaid;—It shall and may be lawful for the Governor or Commander in Chief, by warrant or commission under his hand and seal, to depute, constitute, and appoint the Chief Justice, or either of the Justices of the Supreme Court of Judicature, or the Master of the Rolls, to preside in his place and stead in the said Court of the Governor and Council, and to have, hold, and exercise all the powers, privileges, authority, and jurisdiction of the Governor or Commander in Chief in the same Court; and such Deputy or Vice President shall have, hold, and exercise all such powers, privileges, authority, and jurisdiction accordingly, as are hereby given and granted to the Governor or Commander in Chief in the same Court, in all the causes, matters, and things therein cognizable by this Act.

8. Repealed by 12 Vic. cap. 29.

9. The causes from divorce from the bond of Matrimony, and of dissolving and annulling Marriage, are and shall be, frigidity or impotence, adultery, and consanguinity within the degrees prohibited in and by an Act of Parliament made in the thirty second year of the Reign of King Henry the Eighth, intituled *An Act for Marriages to stand; notwithstanding pre-contracts*, and no other causes whatsoever.

10. Provided always, that in case of a sentence or divorce

from the bond of Matrimony or Marriage for the cause of adultery, the issue of such Marriage shall not in any case be bastardized, or in any way prejudiced or affected with any disability thereby; provided also, that the wife in such case shall not be thereby barred of her dower, or the husband be thereby deprived of any tenancy by the courtesy of England, unless it shall be so expressly adjudged and determined in and by such sentence of divorce.

11. An Act made and passed in the twenty seventh year of His present Majesty's Reign, intituled *An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery, and Fornication*, be and the same is hereby repealed, and declared to be utterly null and void.

4th WILLIAM 4th—CHAPTER 30.

An Act for the further regulation of the formation of the Court of Governor and Council for the determination of all suits and controversies touching and concerning Marriage and Divorce.

Section.

1. Court of Governor and Council, who to constitute.

Section.

2. With what powers vested.

Passed 22nd March 1834.

WHEREAS since the passing of the Act of the thirty first year of the Reign of His late Majesty King George the Third, intituled *An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery, and Fornication*, an alteration in the constitution of His Majesty's Council of this Province having taken place, by separating the Executive from the Legislative Council, and thereby dividing them into two distinct bodies, it has become necessary to make some further provisions in respect to the constitution of the Court of Governor and Council, constituted and appointed in and by the fifth Section of the hereinbefore in part recited Act;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, the members of the said Court of Governor and Council, in and by the said fifth Section of the said hereinbefore in part recited Act mentioned and constituted, shall consist of the Lieutenant Governor or Commander in Chief of, and His Majesty's Executive Council for the said Province, for the time

being, together with any one of the Judges of the Supreme Court, or the Master of the Rolls of the said Province, to be from time to time for that purpose appointed, as Vice President of the same Court, which appointment of such Vice President to be made in manner as directed by the seventh Section of the said hereinbefore in part recited Act, and such Vice President when so appointed shall have, hold, and exercise in the absence of the said Lieutenant Governor, all the powers, privileges, authority, and jurisdiction mentioned and declared in and by the said seventh Section of the said hereinbefore in part recited Act; and the Lieutenant Governor or Commander in Chief of the said Province for the time being, shall and is hereby declared to be President of the said Court; but the said Vice President so to be appointed as aforesaid, and any two members of His Majesty's Executive Council for the said Province for the time being, shall and are hereby declared to be a sufficient number of members at all times to constitute a Court for the dispatch and determining of all matters or business brought before the said Court that may be within the jurisdiction of the same.

2. The said Court of Governor and Council so constituted as in and by this Act is directed, shall have all the powers, authority, privileges, judicature, and jurisdiction that are given to the Court of Governor and Council mentioned and constituted in and by the said hereinbefore in part recited Act; and all the provisions of the said hereinbefore in part recited Act, so far as the same relate to the Court of Governor and Council therein mentioned, and to all matters within the jurisdiction thereof, shall also extend and be construed to extend and apply to the Court of Governor and Council in this Act mentioned and constituted, except so far as the same are hereby altered as to the constitution of the said Court.

6th WILLIAM 4th—CHAPTER 34.

An Act for altering the Terms of holding the Court of the Governor and Council for causes of Marriage and Divorce.

Section.

1. Repeal of Acts.

Section.

2. Terms of the Court.

Passed 8th March 1836.

WHEREAS it is expedient to alter the fixed and stated Terms

of holding the Court of the Governor and Council for causes of Marriage and Divorce ;—

Be it enacted, &c.—1. The sixth Section of an Act made and passed in the thirty first year of the Reign of King George the Third, intituled *An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery, and Fornication*, and also an Act made and passed in the forty eighth year of the same Reign, for altering and amending the said recited Act, be and the same are hereby repealed.

2. The fixed and stated Terms of holding the Court of the Governor and Council for the purposes and causes mentioned in the said recited Act of the thirty first year of the Reign of King George the Third, shall be and commence on the second Tuesday in February, the third Tuesday in June, and the third Tuesday in October in each and every year, and shall continue during the space of ten days.

10th VICTORIA—CHAPTER 38.

An Act for the further regulation of the Court of Governor and Council in causes of Marriage and Divorce.

Section.

1. Proceedings for contempt.

Section.

2. Form of process in the Court.

Schedule.

Passed 7th March 1847.

WHEREAS it is expedient that certain regulations should be made to expedite the proceedings in the Court of Governor and Council in suits of Marriage and Divorce ;—

Be it therefore enacted, &c.—1. In all causes which by the Laws of this Province are cognizable in the Court of Governor and Council for hearing causes of Marriage and Divorce, when any person or persons having been duly cited to appear in such Court, or required to comply with the lawful orders or decrees, as well final as interlocutory, of such Court, shall neglect or refuse to appear, or neglect or refuse to pay obedience to such lawful orders or decrees, or when any person or persons shall commit a contempt in the face of such Court, it shall be lawful for the Court who issued out the citation, or whose lawful orders or decrees have not been obeyed, or before whom such contempt shall have been committed, to pronounce such person or persons in contempt, and thereupon a Writ *de contumace*

capiendo, in the form to this Act annexed, shall issue out of the said Court, directed to any of the Sheriffs of the several Counties in this Province within whose bailiwick the person or persons so in contempt may be alleged to be, returnable on the first day of the next Term of such Court, and tested the last day of the preceding Term, or if issued in Term time, returnable on any day in such Term to be directed by the said Court, and tested the first day of the said Term; and all Sheriffs, gaolers, and other officers, are hereby authorized and required to execute the same, by taking and detaining the body of the person against whom the said Writ shall be directed to be executed; and upon the due appearing of the said party so cited, and not having appeared as aforesaid, or the obedience of the party so cited and not having obeyed as aforesaid, or the due submission of the party so having committed a contempt in the face of the Court, the said Court shall pronounce such party absolved from the contempt aforesaid, and shall forthwith make an order on the Sheriff or other officer in whose custody such party may be, for discharging such party out of custody; and such Sheriff or other officer shall, on the said order being shewn to him, as soon as such party shall have discharged the costs lawfully incurred by reason of such contempt, forthwith discharge him.

2. The said Court shall have full power and authority from time to time to direct and declare the forms of process, and to prescribe, modify, alter, and amend the practice and proceedings to be observed in all matters of which the said Court now has or hereafter may have cognizance and jurisdiction.

SCHEDULE.

Form of Writ De Contumace Capiendo.

Victoria, &c.

To the Sheriff of

Greeting :

Whereas is manifestly contumacious and contemns the jurisdiction and authority of the Court of Governor and Council for Marriage and Divorce [*here state fully the non-appearance, disobedience, or the contempt in the face of the Court, as the case may be*] You are hereby commanded to attach the said by body until shall make satisfaction for the

said contempt; and how you shall execute this precept, notify unto the said Court on next, and in no wise omit this: and have you there then this Writ.

Witness Lieutenant Governor (*or Administrator of the Government, as the case may be*) in the said Province.

26th GEORGE 3rd—CHAPTER 20.

An Act for admitting Depositions *de bene esse* of Witnesses aged, infirm, and otherwise unable to travel, and of Witnesses departing from the Province.

Section.

1. When and how witness examined *de bene esse*.
2. What proof of notice.
3. Evidence *viva voce*, when.

Section.

4. Exceptions to credit of, how reserved.
5. Affirmation, by whom.
6. What to be perjury.

Be it enacted, &c.—1. When it shall so happen that any of the witnesses which shall be judged necessary to be produced on the trial of any cause between party and party, shall be infirm, aged, or otherwise unable to travel, or when any such witness or evidence is obliged to leave the Province, it shall and may be lawful for any one of the Judges of the Court where the cause is to be tried, after declaration filed, on due notice given to the adverse party to be present (if he sees fit) to take the deposition of such infirm or aged person or persons unable to travel, or who is obliged to leave the Province; and such depositions so taken and certified under the hand and seal of the said Judge, and sealed up and directed to such Court, shall be received as legal evidence in such cause, and also, when the title to land shall be in question, in all future causes between the same parties or persons holding under them for the same land.

2. Provided that proof be made on oath that due notice was given to the adverse party of the time and place of taking such depositions.

3. And provided nevertheless, that if such witnesses shall at the time of the trial of the cause be in the Province, or able to travel, they shall be required to give their testimony *viva voce* at such trial, in the same manner as if such depositions had not been taken.

4. Provided also, that all benefit of exceptions to the credit

of such deponents shall be reserved in the same manner as on producing witnesses for examination viva voce at the trial.

5. Every person of the profession of the people called Quakers, who shall be required to take an oath as aforesaid, shall instead of an oath be permitted to make his or her solemn affirmation.

6. Every person who shall have made such oath or solemn affirmation, and shall be convicted of wilfully, falsely, and corruptly having sworn or affirmed any thing, shall incur the same penalties as persons convicted of wilful and corrupt perjury.

60th GEORGE 3rd—CHAPTER 7.

An Act to enable the Justices of the Supreme Court to enlarge the time of the Sittings of the said Court, when the same shall be expedient.

Section.

1. When Sittings of Supreme Court may be adjourned.

Section.

2. Teste days of Writs unaltered.

Passed 20th March 1820.

WHEREAS it frequently happens that the established duration of the Terms of the Supreme Court is not sufficient for the requisite trial of causes and the hearing of matters depending in the said Court ;—

Be it enacted, &c.—1. From and after the passing of this Act, it shall and may be lawful for the Justices of the said Court, if they shall deem the same to be expedient, to adjourn the Sittings of the said Court to the week next succeeding the said Terms respectively, and that all causes and matters heard and determined on any day during the week next succeeding the said Terms respectively, pursuant to such adjournment, shall have the same and the like force and effect, to all intents and purposes, as if such causes and matters had been heard and determined at any time during the said Terms respectively, and all parties concerned shall take due notice of such adjournments, from time to time respectively, and govern themselves accordingly ; subject always to such rules and regulations as may by the Justices of the said Court from time to time in that behalf be made and established ; provided that no trials of any issues by jury shall be had at any such adjourned

Sittings, any thing herein contained to the contrary notwithstanding.

2. Provided also, the days of the teste and return of all Writs in the said Court shall be and remain the same as heretofore established, any thing in this Act to the contrary thereof in any wise notwithstanding.

8th GEORGE 4th—CHAPTER 2.

An Act to prevent unnecessary delay and expense in proceedings against persons having privilege of the General Assembly.

Section.

1. Appearance for Members of Assembly.

Section.

2. What privileges reserved.

Passed 19th March 1827.

WHEREAS the mode of proceeding against persons having privilege of the General Assembly by distringas, is extremely dilatory and expensive;—

Be it enacted, &c.—1. From and after the passing of this Act, when any Summons shall be sued out against any Member of His Majesty's Council, a Member of the House of Assembly, or other persons having privilege of the General Assembly, if the defendant or defendants shall not appear at the return of the summons, or within twenty days after such return, in every such case it shall and may be lawful to and for the plaintiff or plaintiffs, upon affidavit being made and filed in the proper Court, of the personal service of such summons, to enter an appearance or appearances for the defendant or defendants, and to proceed thereon as if such defendant or defendants had entered his or their appearance.

2. Provided nevertheless, that nothing in this Act contained, shall extend or be construed to subject any person whatsoever, entitled to the privilege of the General Assembly, to be arrested, restrained, or imprisoned, during the term of such privilege; but that every such person shall continue to be exempt therefrom, in like manner as if this Act had not been made.

2nd WILLIAM 4th—CHAPTER 20.

An Act to regulate the service of Writs of Scire Facias.

Section.

1. What proceedings abolished.
2. How directed and served.
3. How served when defendant found, &c. in Province.
4. How, when not found, &c. therein.

Section.

5. Effect of good service.
6. Proceedings in other cases.
7. Repeal of Acts.
8. Commencement of Act.

Passed 9th March 1832.

Be it enacted, &c.—1. The proceeding by two nihilis returned, and also that of summoning by summoners on writs of scire facias, shall be abolished.

2. Writs of scire facias may be directed to the Sheriff of any County within the Province, whether or not it be the County in which the Court sits, or in which the venue is laid, and may be served in any County, although directed to the Sheriff of another County.

3. When the defendant or defendants in writs of scire facias can be found within the Province, or have a known place of abode therein, such writs shall be served by delivering a copy of the writ to each defendant, or leaving such copy at the defendant's place of abode, with the wife, or an adult member of the family, or a person having the care of the house of such defendant; which service shall be proved by affidavit made and filed; provided that in cases where the service is not personal, it shall not be deemed good service without the order of the Court, or a Judge of the Court, from which the writ has issued, upon reading the affidavit of service.

4. When any defendant cannot be found within the Province, and has not a known place of abode therein, writs of scire facias may be served by delivering a copy of the writ to any known agent of such defendant, or to any person having charge of any property, real or personal, of such defendant, or being jointly interested in any property, real or personal, of such defendant, within the Province; and such service shall be deemed good service when so ordered by the Court, or a Judge of the Court from which the writ has issued, upon affidavit of such service, and upon its being also made to appear upon affidavit to the satisfaction of such Court or Judge that the defendant cannot be found, and has no known place of abode within the Province.

5. Good service of writs of scire facias, according to the

provisions of this Act, shall in all cases be equivalent to a return of scire feci by the Sheriff as heretofore practised.

6. When it shall be made to appear upon affidavit to the satisfaction of the Court, or a Judge of the Court from which a writ of scire facias may have issued, that such a writ cannot be served in any of the modes hereinbefore specified for that purpose, such Court or Judge shall, after the return and filing of the writ, direct a rule to be entered requiring any defendant as to whom such service cannot be made, to appear to such writ within twenty days after the last publication of such rule in one or more Newspapers published in such parts of the Province as such Court or Judge shall direct; and a copy of such rule, certified by the Clerk of the Court, shall be published in such Newspaper or Newspapers for four weeks successively; and if an appearance to the scire facias shall not be duly entered for such defendant within the said twenty days, such proceedings may be had as in the case of default of appearance after due service of the writ; affidavit of the due publication of such rule according to the tenor thereof being first made and filed.

7. The fourth Section of an Act made and passed in the eighth year of the Reign of His Majesty King George the Fourth, intituled *An Act for the more easy assessment of damages on Bonds payable by instalments, and other similar instruments, and for the more convenient service of Writs of scire facias*, be and the same is hereby repealed.

8. This Act shall commence and take effect on the first day of May in the present year.

5th WILLIAM 4th—CHAPTER 34.

An Act to facilitate the examination of Witnesses before trial in the Supreme Court.

Section.

1. Examination of, by whom, how, and where directed.
2. How attendance obtained, and proceedings.
3. If in custody, how brought up.
4. Examination of.

Section.

5. What report may be made, and to whom.
6. Costs, to whom given.
7. When examinations not allowed, how returned.
8. General rules.
9. Repeal of Acts.

Passed 17th March 1835.

Be it enacted, &c.—1. That it shall be lawful for the Supreme Court, and the several Judges thereof, in any action

depending in such Court, upon the application of any of the parties to such suit, to order the examination on oath, upon interrogatories or otherwise, before a Judge of the Court or any other person or persons to be named in such order, of any witnesses within this Province, or to order a Commission to issue under the Seal of the said Court, for the examination of witnesses on oath at any place or places out of this Province, by interrogatories or otherwise, and by the same or any subsequent order or orders to give all such directions touching the time, place, and manner of such examination, as well within this Province as without, and all other matters and circumstances connected with such examinations as may appear reasonable and just.

2. When any rule or order shall be made for the examination of witnesses within this Province by authority of this Act, it shall be lawful for the Court or any Judge thereof, in and by the first rule or order to be made in the matter, or any subsequent rule or order, to command the attendance of any person to be named in such rule or order, for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and to direct the attendance of any such person to be at his own place of abode or elsewhere, if necessary or convenient so to do; and the wilful disobedience of any such rule or order shall be deemed a contempt of Court, and proceedings may be thereupon had by attachment, (the Judge's order being made a rule of Court before or at the time of the application for an attachment) if, in addition to the service of the rule or order, an appointment of the time and place of attendance in obedience thereto, signed by the Judge or person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order; provided always, that the service of every such rule, order, or appointment, shall be by showing to the person whose attendance shall be required the original paper under the hand of the Judge or person issuing the same, and by delivering to such person a copy thereof, or a ticket containing the substance thereof; and also that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses as upon attendance at a trial; provided also, that

no person shall be compelled to produce under any such rule or order any writing or other document that he would not be compellable to produce at a trial of the cause.

3. It shall be lawful for any Sheriff, gaoler, or other officer having the custody of any prisoner, to take such prisoner for examination under the authority of this Act, by virtue of a writ of habeas corpus to be issued for that purpose; which writ shall and may be issued by the Court or Judge under such circumstances and in such manner as such Court or Judge may now by law issue the writ commonly called a writ of habeas corpus ad testificandum.

4. It shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, or commission made or issued in pursuance of this Act, and he and they are hereby authorized and required to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by any person so authorized, or by the Judge of such Court; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the County wherein such evidence shall be given, or in the County of York if the evidence be given out of the Province.

5. It shall and may be lawful for any person or persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof, and he and they are hereby required to make, if need be, a special report to the Court touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the Court is hereby authorized to institute such proceedings, and make such order and orders upon such report as justice may require, and as may be instituted and made in any case of contempt of the Court.

6. The costs of every rule or order to be made for the examination of witnesses under any commission or otherwise by virtue of this Act, and of the proceedings thereupon, shall be costs in the cause, unless otherwise directed either by the Judge making such rule or order, or by the Judge before whom the cause may be tried, or by the Court.

7. No examination or deposition to be taken by virtue of this Act shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the Judge on proof by affidavit or viva voce, that the examinant or deponent is out of the Province, or dead, or unable from sickness or other infirmity to attend the trial; in all or any of which cases the examinations and depositions certified under the hand of the Judge, Commissioners, or other person taking the same, shall and may without proof of the signature to such certificate be received and read in evidence, saving all just exceptions; provided always, that such examinations or depositions shall be closed up under the seal of the Judge, Commissioner, or other person taking the same, and addressed to the Supreme Court, and shall not be opened before the trial without the consent of the parties to the suit.

8. The Judges of the Supreme Court may from time to time make and establish such general rules and orders relating to the matters contained in this Act, the same being not repugnant to this Act, as to them may seem expedient.

9. An Act made and passed in the thirty first year of the Reign of King George the Third, intituled *An Act to enable the Justices of the Supreme Court to issue Commissions for the examining of Witnesses out of the Province*, be and the same is hereby repealed.

5th WILLIAM 4th—CHAPTER 37.

An Act to provide for the more convenient administration of Justice in the Supreme Court.

Section.

1. Trinity Term, what.
2. When extended.
3. Tests and return, of Writs.
4. Issues in York, how tried.
5. Sittings in, when may be held.
6. Crimes in, how tried and punished.
7. Writs returned, and officers, &c. to attend Sittings.

Section.

8. Who to be Clerk at same.
9. Repealed.
10. On Postea returned, what proceedings.
11. Judgments how entered, and Executions tested.
12. Judgments when postponed, vacated, &c.
13. What rules Judges may make.
14. When Act to take effect

Passed 17th March 1835.

WHEREAS trials by Jury in Term time are found to be inconvenient, and to delay and impede the matters pending for argument in the said Court ;—

Be it enacted, &c.—1. The Trinity Term of the said Court shall commence on the second Tuesday in June in each and every year, and continue unto and include the Saturday following.

2. Provided always, that it shall and may be lawful for the Justices of the said Court, if they shall see fit, further to continue and extend the said Trinity Term hereinbefore established unto the week next succeeding the same, in like manner and subject to the same rules and provisions in all respects as are contained in an Act made and passed in the sixtieth year of the Reign of King George the Third, intituled *An Act to enable the Justices of the Supreme Court to enlarge the time of the Sittings of the said Court when the same shall be expedient*, with regard to the Terms of the said Court.

3. The second Saturday after the first Tuesday in each and every Term of the said Supreme Court shall be a day for the teste and return of all writs in the said Court.

4. The Chief Justice for the time being, or any Justice of the said Supreme Court, may, at Sittings to be appointed in the manner hereinafter directed, try all manner of issues joined or to be joined in the said Court, triable by a Jury of the County of York, without any Commission being expressly made for that purpose; and it shall be lawful for any person or persons to take or sue forth writs and records of Nisi Prius for the trial of the said issues in the said County of York, as they may do upon any issue triable in any other County.

5. Such Sittings shall be held on such days and times, either before or after the respective Terms of the said Court, as the Justices of the said Court by rule or order made in Term time may find it fit and expedient from time to time to direct and appoint.

6. The said Chief Justice and Justices of the said Supreme Court, or any one or more of them, at such Sittings as aforesaid, shall and may inquire of, hear, determine, and punish all and all manner of crimes and offences committed within the said County of York, in like manner as the said Chief Justice and Justices may and have been used to do at the Terms of the said Court, without any Commission or Commissions of Oyer and Terminer and Gaol Delivery being expressly made for that purpose.

7. The Sheriff of the said County of York for the time being shall make return of all writs and precepts to him directed returnable at such Sittings respectively; and the said Sheriff, and the Coroner and Coroners, Bailiffs, Constables, and all officers and ministers of the law whatever within the said County of York for the time being, and also all jurors to be summoned, and all parties and witnesses in the causes, criminal and civil, to be heard and tried at such respective Sittings, shall give their attendance at such respective Sittings, and shall be charged and bound in such and the like manner, and upon like pains and penalties, for non-appearance and non-attendance, or for any misdemeanor or default at such Sittings, as if at the Terms of the said Supreme Court.

8. The Clerk of the Crown in the Supreme Court shall be Clerk of the Crown and also Nisi Prius Clerk at such Sittings in the County of York, and shall be subject to all the duties and entitled to all the rights, privileges, and emoluments of these offices respectively.

9. Repealed by 12th Vic. cap. 39. *See post. page 348.*

10. In any action brought in the said Supreme Court in which a postea shall be returned either from the Sittings in the County of York or from any Circuit Court in any other County, it shall be lawful for the Clerk of the Pleas, upon the production of the postea signed in the margin by the officer who returns the postea, to enter a rule for judgment on the postea, and to tax the costs and sign judgment, whereupon execution may be issued forthwith; provided always, that it shall be lawful for the Judge before whom such Sittings or Circuit Court shall be held, in any case where justice may appear so to require, either upon summons or not, according to the circumstances of the case, to order the returning of the postea and the entry and signing of judgment to be stayed until the Court shall make order in the matter at the next succeeding Term; and provided also, that no rule for judgment on the postea shall be entered by the Clerk of the Pleas under this Act, until the expiration of twenty days after the last day of the sitting of the Court from which the postea is returned; and in order to manifest such last day of the sitting of such Court, the officer who returns the postea shall set the same down in the margin of the postea when he signs his name thereto.

11. Every judgment to be entered by virtue of this Act may be entered upon record as the judgment of the Court, although the Court may not be sitting on the day of the signing and entry thereof; and every execution issued by virtue of this Act shall and may bear teste on the day of issuing thereof; and such judgment and execution shall be as valid and effectual as if the same had been signed, entered of record, and issued according to the course of the common law.

12. Provided always, that it shall be lawful for the party entitled to any judgment under this Act to postpone the signing thereof; and provided also, that notwithstanding any judgment signed and entered of record, or execution issued by virtue of this Act, it shall be lawful for the Court to order such judgment to be vacated and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial, or a new writ of inquiry, or a new assessment of damages or of the amount to be recovered, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may have lost thereby in such manner as upon the reversal of a judgment by writ of error, or otherwise as the Court may think fit to direct.

13. The Judges of the Supreme Court may from time to time make and establish such rules and orders relating to the matters contained in this Act, and also touching the award and return of any Jury process for trials at Nisi Prius, the same being not repugnant to this Act, as to them may seem expedient.

14. This Act shall commence and take effect on the first day of January one thousand eight hundred and thirty six; provided always, that the Judges of the Supreme Court may before that time make any rules and orders authorized by this Act, but not to go into operation before that day.

3rd VICTORIA—CHAPTER 51.

An Act to declare the Law with regard to Commissions for taking Affidavits to be read in the Supreme Court.

Section.

1. What Commissions valid.

Section.

2. Limitation as to Counties.

Passed 25th March 1840.

WHEREAS the Chief Justice and Justices of the Supreme

Court in this Province, under and by virtue of an Act of Parliament made and passed in the twenty ninth year of the Reign of King Charles the Second, intituled *An Act for taking Affidavits in the Country to be made use of in the Courts of King's Bench, Common Pleas, and Exchequer*, have been accustomed by Commissions under the Seal of the said Court to empower persons to take affidavits to be read in the said Court, and in many instances such Commissions have been general and not confined to any one County, and doubts are entertained whether such general Commissions are authorized by the said Act of Parliament ;—

Be it declared and enacted, &c.—1. All Commissions heretofore made by the said Chief Justice and Justices, under and by virtue of the said Act of Parliament, shall be good and valid, notwithstanding any such Commission be general and not confined to any one County.

2. Hereafter it shall and may be lawful for the said Chief Justice or Justices to make and issue Commissions under the said Act of Parliament, either with limitation to any one or more Counties in the Province, or without any such limitation, as to them in their discretion may seem meet.

3rd VICTORIA—CHAPTER 63.

An Act further to regulate proceedings in Replevin, by allowing damages in certain cases to the defendant.

Section.

1. When Jury may find damages in replevin.
2. Value of goods when may be awarded as damages.
3. For what obligors in replevin bonds liable.

Section.

4. Forms for bonds, &c., by whom to be prescribed.
5. When Act to operate, and effect of.

Passed 31st March 1840.

WHEREAS great injustice is sometimes committed by the wrongful replevin of goods and chattels, in consequence of the party from whose possession such goods and chattels may be taken by replevin not being entitled to recover damages where a return may be awarded;—

Be it enacted, &c.—1. If upon the trial of any issue respecting the property in any action of replevin, or of any other issue which, upon the same being found in his favour, will entitle the defendant to judgment for the return of the goods

and chattels replevied, or any part thereof, the jury shall find such issue in favour of the defendant, such jury may, if they shall think fit, give damages to the defendant; and the defendant may enter up his judgment thereupon with such damages and the costs of suit, and may issue execution for such damages and costs in like manner as he now may for the costs of suit only.

2. And whereas it may often be of advantage to allow the goods and chattels which may be wrongfully replevied to be valued by the jury at the trial of any such issue as aforesaid, and such value to be awarded to the defendant in damages;— In all cases where the property may not have been already restored to the defendant, the jury on the trial of any such issue as aforesaid may, at the instance and request of the defendant in whose favour such issue may be found, award to such defendant the value of the goods and chattels in damages; and in such case it shall be so specifically stated in the rendering of their verdict; and the defendant shall be thereupon entitled to enter up his judgment for the recovery of such damages, and to issue execution thereupon, instead of entering up judgment *de retorno habendo* as heretofore accustomed, and upon the award of such value in damages and judgment thereupon, the defendant's right and interest in such goods and chattels shall become vested in the plaintiff.

3. All obligors in replevin bonds to be made after this Act takes effect, shall become liable and bound to the payment of any such damages as may be awarded to the defendant by virtue of this Act.

4. The Justices of the Supreme Court, or any three of them, shall have power and they are hereby authorized and required at any Term of the said Court which may occur after the time of passing this Act, to frame and prescribe proper and suitable forms for the replevin bonds hereafter to be taken, and for the entering of any verdict or judgment pursuant to this Act, which shall be published in the Royal Gazette; and such forms shall, from the time of this Act taking effect, be observed and complied with in the same manner as if the same were in this Act specified and contained; and such forms shall be applicable to the Inferior Court of Common Pleas as well as the Supreme Court.

5. This Act shall commence and take effect on the first day of January in the year of our Lord one thousand eight hundred and forty one ; provided always, that in the mean time the Justices of the Supreme Court may frame and prescribe the forms mentioned in the fourth Section ; provided also, that nothing in this Act contained shall extend or be construed to extend to affect any proceedings in any action of replevin commenced before this Act goes into operation.

3rd VICTORIA—CHAPTER 65.

An Act to amend the Law of Evidence in regard to the proof of Records and Letters Patent.

Section.

1. Parts of Records when exemplified, and evidence.
2. Record of Grants, when copy evidence.
3. When part thereof sufficient.

Section.

4. When copy of Plan may be annexed.
5. Nova Scotia Grants, how copies to be evidence.
6. Costs of, how allowed.

Passed 31st March 1840.

WHEREAS unnecessary expense is frequently incurred in the exemplification of Judgments in the Supreme Court ;—

Be it enacted, &c.—1. When parts only of Records or Rolls of Judgments in the Supreme Court may be necessary to be given in evidence, exemplifications of such parts which may be so necessary may be received in evidence in any Court in this Province, without requiring the whole of the Record or Roll to be exemplified.

2. And whereas much expense is often incurred in procuring exemplifications under the Great Seal of Grants of Land by the Crown in this Province ;—A copy from the Record of any such Grant in the Office of the Secretary and Register of the Province, duly certified under the hand of such Officer, as having been examined by him with the Record, and found to be correct, or duly proved by any witness who shall have examined the same with the Record, shall be deemed and taken to be as good and sufficient evidence of such Grant or Letters Patent as an exemplification thereof under the Great Seal.

3. In the proof of title from the Crown by an exemplification under the Great Seal, or by a certified or an examined copy as is hereinbefore provided, it shall not be necessary to

exemplify or copy the conditions contained in such Letters Patent, on the part of the grantees, their heirs and assigns, to be observed and performed, or any other clause in the said Letters Patent which may not be pertinent or relevant to the matter in question; and that no such exemplification or copy shall be rejected in evidence on account of the omission of such clauses, provided such omission do not prejudice the opposite party, or affect the merits in question.

4. Provided always, that when the said Letters Patent or Grant refer to any Plat or Plan as annexed thereto, no exemplification or copy of such Letters Patent or Grant shall be received in evidence, unless there be annexed thereto a true transcript or copy of such Plat or Plan, unless it be proved by the certificate of the Secretary and Register, or otherwise to the satisfaction of the Court at which the evidence may be tendered, that there is no such Plat or Plan entered with the said Grant or Letters Patent in the said Office of the Secretary and Register.

5. Grants of Land heretofore made under the Great Seal of Nova Scotia, prior to the erection and establishment of this Province, and registered in the Office of the Secretary and Register pursuant to an Act passed in the twenty sixth year of the Reign of King George the Third, intituled *An Act for the registering of Letters Patent and Grants made under the Great Seal of the Province of Nova Scotia, of Lands now situate within the limits of this Province*, may be proved by certified or examined copies thereof, or of the material parts thereof, in like manner as hereinbefore provided in respect to Grants passed under the Great Seal of this Province.

6. The expense of any exemplification, or copy of any Roll, Record, or Letters Patent, or any part thereof, or of any Plat or Plan given in evidence by virtue of this Act, may be charged and allowed in the taxation of costs in whole or in part by the taxing officer of the Court wherein the suit may be pending, whose decision thereupon may be reviewed by the Court as in ordinary cases.

10th VICTORIA—CHAPTER 1.

An Act to re-establish the Easter Term of Her Majesty's Supreme Court of Judicature in this Province.

Section.

1. Easter Term.
2. Commencement and duration.
3. How extended.

Section.

4. Teste, &c. of Writs.
5. What Writs, &c. not to affect, and Rules how argued.

Passed 12th March 1847.

Be it enacted, &c.—1. From and after the passing of this Act, there shall be a Term in the Supreme Court in this Province, to be called and known as the Easter Term, any law, usage, or custom to the contrary notwithstanding.

2. The said Easter Term shall be held on the second Tuesday in April in each and every year, and shall continue unto and include the Saturday following.

3. Provided always, that it shall and may be lawful for the Justices of the said Court, if they see fit, further to continue and extend the said Easter Term unto the week next succeeding the same, in like manner and subject to the same rules and provisions in all respects, as are contained in an Act made and passed in the sixtieth year of the Reign of King George the Third, intituled *An Act to enable the Justices of the Supreme Court to enlarge the time of the Sittings of the said Court, when the same shall be expedient*, with regard to the Terms of the said Court.

4. The second Saturday after the first Tuesday in the said Easter Term established by this Act, shall be a day for the teste and return of all Writs in the said Supreme Court.

5. Provided always, that nothing herein contained shall extend or be construed to extend to affect any Writs, Processes, Executions, or Rules Nisi, which may be returnable at the next Trinity Term; but that the same, and the proceedings which may be had thereon, shall be as valid and effectual as if the Term hereby established had not intervened; and that all Rules granted at the last Term and returnable at the next Term, may be argued and disposed of at the said Easter Term, in the discretion of the Judges of the said Court.

12th VICTORIA—CHAPTER 39.

An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law.

| Section. | Section. |
|--|--|
| 1. Repeal of Acts. | 26. When defendants may require jury. |
| 2. Abatement for non-joinder of defendant, how pleaded. | 27. When interest allowed on debts. |
| 3. Recovery in new actions. | 28. When jury may give damages as interest. |
| 4. Plea of misnomer, when not allowed; when allowed, what proceedings. | 29. Where verdict, &c. suspended, by whom interest may be allowed. |
| 5. Amendment, how ordered. | 30. Form of judgment to be prescribed. |
| 6. What proceedings if no order. | 31. What arrears of rent executor may distrain for. |
| 7. Arbitration by Rule of Court, when not revoked. | 32. When such arrears may be distrained for. |
| 8. Attendance on, &c. how enforced. | 33. What actions respecting real estate Executors may bring; and for what injuries to property liable, &c. |
| 9. Oath of witnesses. | 34. Testatum Execution abolished; exception as to bail. |
| 10. Postea on award, how returned. | 35. After final judgment, when execution may issue. |
| 11. Bail, for what amount taken, &c. | 36. Sheriff levying under execution, what rent to pay. |
| 12. Non-bailable process, how to proceed. | 37. Crown rights preserved. |
| 13. Render of defendant. | 38. Initial letters of name, how used in affidavit, &c. |
| 14. How, if in custody. | 39. Money paid into Court in what cases. |
| 15. How in Common Pleas. | 40. What deemed good notes. |
| 16. Corporations, how to proceed against. | 41. Particulars, demand of, same as Judge's order; and further proceedings. |
| 17. When plaintiff may enter appearance for, &c. | 42. Several pleas, no rule for necessary; what may be set aside. |
| 18. When Executors, &c. liable to costs. | 43. Special case, how stated, &c. |
| 19. Costs of each defendant in nolle prosequi, &c. | 44. Non-bailable writs, how served. |
| 20. Same on Count or part of Declaration. | 45. When answer of witness may be compelled. |
| 21. Costs on scire facias and demurrer. | 46. Court of Record, what to mean. |
| 22. Repealed. | |
| 23. Construction clause. | |
| 24. Assessment of damages, when and how made. | |
| 25. After judgment; how to proceed for further breaches. | |

Passed 14th April 1849.

WHEREAS it is expedient that several Acts of Assembly relating to the amendment of the Law should be amended and consolidated into one Act;—

Be it therefore enacted &c.—1. The several Acts and parts of Acts hereinafter mentioned be and the same are hereby repealed, (save as hereinafter otherwise is provided) that is to say:—An Act made and passed in the twenty sixth year of the Reign of His Majesty King George the Third, intituled *An Act to prevent unnecessary expense in actions on the case on judgment by default*; also an Act made and passed in the twenty sixth year of the same Reign, intituled *An Act to prevent frivolous and vexatious arrests*; also an Act made and passed in the fourth year of the Reign of King George the Fourth, intituled *An Act to provide for the surrender of the principal in discharge of Bail in actions pending in the Supreme Court of Judicature of this Province*; also an Act made and passed in the eighth year of the same Reign, intituled *An Act for the*

more easy assessment of damages in actions on Bonds payable by instalments, and other similar instruments, and for the more convenient service of Writs of scire facias ; also an Act made and passed in the ninth and tenth years of the same Reign, intituled An Act to prevent the failure of justice by reason of variances between Records and Writings produced in evidence in support thereof ; also an Act made and passed in the same years of the same Reign, intituled An Act to continue and amend an Act, intituled " An Act to provide for the surrender of the principal in discharge of Bail in actions pending in the Supreme Court of Judicature in this Province ;" also an Act made and passed in the fifth year of the Reign of His late Majesty William the Fourth, intituled An Act to make perpetual the Acts of the General Assembly relating to the surrender of the principal in discharge of Bail ; also the ninth Section of an Act made and passed in the same year of the same Reign, intituled An Act to provide for the more convenient administration of Justice in the Supreme Court ; also the sixth Section of an Act made and passed in the sixth year of the same Reign, intituled An Act to prescribe certain general regulations in respect to Corporations ; also an Act made and passed in the seventh year of the same Reign, intituled An Act for the amendment of the Law and the better advancement of Justice ; also an Act made and passed in the first year of the Reign of Her present Majesty, intituled An Act for the further amendment of the Law ; also an Act made and passed in the fourth year of the same Reign, intituled An Act in further amendment of the Law ; also the first Section of an Act made and passed in the sixth year of the same Reign, intituled An Act to amend the Law relating to the practice in the Inferior Court of Common Pleas, and render the same uniform in the several Counties ; also an Act made and passed in the tenth year of the same Reign, intituled An Act for the further amendment of the Law and the better advancement of Justice ; also an Act made and passed in the eleventh year of the same Reign, intituled An Act in further amendment of the Law : Provided always, that nothing in this Act contained shall extend to repeal any of the said recited Acts so far as they or any of them repeal any former Acts, or so far as respects any act, matter, or thing heretofore done under and by virtue of the

said recited Acts ; provided also, that any Rules of Court, or regulations heretofore made under and by virtue of any authority given in and by the said recited Acts, shall be and still continue valid, effectual, and applicable to the provisions of this Act, so far as consistent with the same, until such rules or regulations may from time to time be altered ; and provided also, that all actions commenced in the said Courts under the provisions of the said recited Acts, before the passing of this Act, may still be proceeded with to their final termination, in the same manner as if this Act had not been made and passed.

ABATEMENT.

2. No plea in abatement for the non-joinder of any person as a co-defendant shall be allowed in any Court of Record in this Province, unless it shall be stated in such plea that such person is resident within the Province, and unless the place of residence of such person shall be stated with convenient certainty in an affidavit verifying such plea.

3. In all cases in which after such plea in abatement the plaintiff shall, without having proceeded to trial upon an issue thereon, commence another action against the defendant in the action in which such plea in abatement shall have been pleaded, and the person named in such plea in abatement as joint contractor, it shall appear by the pleadings in such subsequent action, or on the evidence at the trial thereof, that all the original defendants are liable, but that one or more of the persons named in such plea in abatement, or any subsequent plea in abatement, are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment, or to a verdict and judgment, as the case may be, against the other defendant or defendants who shall appear to be liable ; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs, as against the plaintiff, who shall be allowed the same as costs in the cause against the defendant or defendants who shall have so pleaded in abatement the non-joinder of such person ; provided that any such defendant who shall have so pleaded in abatement shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement.

4. No plea in abatement for a misnomer shall be allowed in any personal action ; but that in all cases in which a misnomer

is by law pleadable in abatement in such actions, the defendant shall be at liberty to cause the declaration to be amended, at the cost of the plaintiff, by inserting the right name, upon a Judge's summons, founded on an affidavit of the right name, and in case such summons shall be discharged the cost of such application shall be paid by the party applying, if the Judge shall think fit.

AMENDMENT.

5. And whereas great expense is often incurred, and delay or failure of justice takes place at trials by reason of variances as to some particular or particulars between the proof and the record, or setting forth on the record or document on which the trial is had, of writings, contracts, customs, prescriptions, names, and other matters or circumstances not material to the merits of the case, and by the mis-statement of which the opposite party cannot have been prejudiced: And whereas it is expedient to allow amendments, as hereinafter mentioned, to be made on the trial of the cause;—It shall be lawful for any Court of Record in this Province, or any Judge thereof, on the trial of the cause, if such Court or Judge shall see fit so to do, to cause the record, writ, or document on which any trial may be pending before any such Court or Judge in any civil action, or in any information in the nature of a quo warranto or proceeding on a mandamus in the Supreme Court, when any variance shall appear between the proof and the recital or setting forth on the record, writ, or document on which the trial is proceeding, of any writing, contract, custom, prescription, name, or other matter, in any particular or particulars, in the judgment of such Court or Judge not material to the merits of the case, and by which the opposite party cannot have been prejudiced in the conduct of his action, prosecution, or defence, to be forthwith amended by some officer of the Court or otherwise, both in the part of the pleadings where such variance occurs, and in every other part of the pleadings which it may become necessary to amend, on such terms as to payment of costs to the other party, or postponing the trial to be had before the same or another jury, or both payment of costs and postponement, as such Court or Judge shall think reasonable; and in case such variance shall be in some particular or particulars, in the judgment of such Court or Judge, not material to the

merits of the case, but such as that the opposite party may have been prejudiced thereby in the conduct of his action, prosecution, or defence, then such Court or Judge shall have power to cause the same to be amended, upon payment of cost to the other party, and withdrawing the record or postponing the trial as aforesaid, as such Court or Judge shall think reasonable; and after any such amendment the trial shall proceed, in case the same shall be proceeded with, in the same manner in all respects, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had appeared; and in case such trial shall be had at *Nisi Prius*, the order for the amendment shall be endorsed on the *postea* or the writ, as the case may be, and returned together with the record or writ, and thereupon such papers, rolls, and other records as it may be necessary to amend, shall be amended accordingly; provided that it shall be lawful for any party who is dissatisfied with the decision of any Judge of the Supreme Court at *Nisi Prius*, respecting his allowance of any such amendment, to apply to the Court in banc for a new trial upon that ground; and in case such Court shall think such amendment improper, a new trial shall be granted accordingly, on such terms as the Court shall think fit, or the Court shall make such other order as to them may seem meet.

6. The said Court or Judge shall and may, if they or he think fit, in all such cases of variance, instead of causing the record or document to be amended as aforesaid, direct the jury to find the fact or facts according to the evidence, and thereupon such finding shall be stated on such record or document, and notwithstanding the finding on the issue joined, the said Court, or the Court from which the record has issued, shall, if they shall think the said variance immaterial to the merits of the case, and the mis-statements such as could not have prejudiced the opposite party in the conduct of the action or defence, give judgment according to the very right and justice of the case.

ARBITRATION.

7. And whereas it is expedient to render references to arbitration in actions depending in the Supreme Court more effectual;—The power and authority of any arbitrator or arbitrators appointed by or in pursuance of any Rule of Court or Order of

Nisi Prius, in any action now brought or which shall be hereafter brought in the said Supreme Court, shall not be revocable by any party to such reference without the leave of the Court or by leave of a Judge, upon good cause shewn therefor, and the arbitrator or arbitrators shall and may, and are hereby required to proceed with the reference, notwithstanding any such revocation, and to make such award, although the person making such revocation shall not afterwards attend the reference.

8. When any reference shall have been made by any such rule or order as aforesaid, it shall be lawful for the Supreme Court, or for any Judge thereof, by rule or order to be made for that purpose, to command the attendance and examination of any person to be named, or the production of any documents to be mentioned in such rule or order, and the disobedience to any such rule or order shall be deemed a contempt of Court, if in addition to the service of such rule or order, an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators before whom the attendance is required, shall also be served either together with or after the service of such rule or order; provided always, that every person whose attendance shall be so required, shall be entitled to the like conduct money and payment of expenses as for and upon attendance at any trial; provided also, that no person shall be compelled to produce under any such rule or order any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days to be named in such order.

9. When in any rule or order of reference it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrators, or any one of them, and he or they are hereby authorized and required to administer an oath to such witnesses, or to take their affirmation in cases where affirmation is allowed by law instead of an oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted accordingly.

10. In any case in which a reference to arbitration shall be made at Nisi Prius, and it shall be ordered that the award of the arbitrators shall be returned on the postea as a verdict of

a jury, and the award shall be filed with the officer who returns the postea, after the last day of the sitting of the Court, such officer shall set down on the margin thereof the day on which such award shall be so filed with him, instead of the last day of the sitting of the Court; and no rule for judgment on the postea shall be entered until the expiration of twenty days after the day so set down; and any Judge of the said Court in any such case in which justice may appear so to require, may either upon summons or not, according to the circumstances of the case, order the returning of the postea and the entry and signing of judgment to be stayed until the Court shall make order in the matter at the next succeeding Term.

BAIL.

11. No person shall be held to special bail upon any process issuing out of any Court of Record in this Province where the cause of action shall not amount to upwards of five pounds, and affidavit thereof made and filed as heretofore accustomed; which affidavit may be made before any Judge of the Court out of which the process may issue, or before any Commissioner appointed to take affidavits to be read in the Supreme Court, or the officer who issues such process or his deputy, and in cases where the plaintiff shall reside out of the Province in any of Her Majesty's Plantations or Provinces, before any Judge of the Supreme or Superior Court in such Plantation or Province; and the sum or sums specified in such affidavit shall be endorsed on the back of the writ or process, for which sum or sums so endorsed, the Sheriff or other officer to whom such writ or process shall be directed, shall take bail, and for no more.

12. In all suits wherein the writ or process shall not be so endorsed for bail, the defendant shall not be arrested, but shall be served with a copy of the process within the jurisdiction of the Court issuing such process, in manner heretofore accustomed; and if such defendant shall not appear or file common bail at the return of such writ, or within twenty days after such return, it shall be lawful for the plaintiff, upon affidavit of the due service of such writ or process, as hereinafter directed, to enter a common appearance or file common bail for the defendant, and to proceed thereon as if such defendant had entered his appearance or filed common bail.

13. A defendant who shall have been held to bail upon any mesne process issued out of the Supreme Court in this Province, may be rendered in discharge of his bail, to the common gaol of any County in which he may be, and the render to such County gaol shall be effected in manner following, that is to say: The defendant, or his bail, or one of them, shall for the purpose of such render obtain an order of a Judge of the said Court, and shall lodge such order with the gaoler of such gaol to which the render may be made, and a notice in writing, of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant, or the bail, or either of them, or by the Attorney of either of them, shall be delivered to the plaintiff's Attorney, and the Sheriff of such County shall, on such render so perfected, be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such; provided always, that in any County in which there may not be a Judge of the said Court at the time of any render so to be made, an order for such render may be obtained from any Commissioner for taking bail in such Court for such County, which order such Commissioner is hereby authorized in such case to grant.

14. A defendant who shall hereafter be in custody of any Sheriff by virtue of any legal process, may be rendered in discharge of his bail in any action depending in the said Supreme Court, in the manner hereinbefore provided for a render in discharge of bail, and such Sheriff shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

15. The provisions hereinbefore contained in respect to rendering defendants in discharge of their bail, shall extend and apply to the several Inferior Courts of Common Pleas in this Province, with regard to actions depending in those Courts respectively, and any Judge of any such Inferior Court of Common Pleas, or any Commissioner for taking special bail in such Courts, may make an order for the render of any defendant held to bail upon any mesne process issued out of the Court of which he is a Judge or Commissioner, to the gaol of the County for which such Court sits, and such and the like proceedings shall be had thereupon as is hereinbefore provided in regard to actions depending in the Supreme Court.

CORPORATIONS.

16. The proceeding by original against any Corporation shall be abolished, and the first process in every action to be brought against any Corporation shall be by Writ of Summons according to the form, or to the effect following, that is to say :

“VICTORIA, SS. To the Sheriff of Greeting :

“We command you that you summon [*here insert the name of Corporation*] that they be before, &c., to answer A. B. of a plea, [*&c. as the case may be,*] and have then there this Writ. Witness, &c.”

And every such Writ of Summons may be served on the Mayor, President, or other head officer, or on the Secretary, Clerk, Treasurer, or Cashier of such Corporation ; and in the case of a Foreign Corporation, or of any body politic or corporate, not being established or incorporated within this Province, and which may enter into any contract or engagement, or transact any business therein by their known or accredited agent or officer, every such Writ or Summons may be served on such accredited agent or officer, or on the person who at the time of such service may be the accredited agent or officer of such Corporation, or body politic or corporate, within this Province ; and such service shall have the like effect in every respect as the service of such Summons on the officers of any Corporation, as is hereinbefore provided.

17. If any Corporation should not cause an appearance to be entered at the return of such Writ of Summons or within twenty days after such return, in every such case it shall and may be lawful for the plaintiff in the action, upon affidavit being made and filed in the proper Court, of the due service of such Writ, to enter an appearance for such Corporation, and to proceed thereupon in like manner as in personal actions against individuals.

COSTS.

18. In every action brought by any executor or administrator in right of the testator or intestate, such executor or administrator shall, unless the Court in which such action is brought shall otherwise order, be liable to pay costs to the defendant in case of being non-suited or a verdict passing against the plaintiff, and in all other cases in which he would be liable if such plaintiff were suing in his own right upon a

cause of action accruing to himself, and the defendant shall have judgment for such costs and they shall be recovered in like manner.

19. Where several persons shall be made defendants in any personal action, and any one or more of them shall have a nolle prosequi entered as to him, or upon the trial of such action shall have a verdict pass for him or them, every such person shall have judgment for and recover his reasonable costs, unless in the case of a trial the Judge before whom such cause shall be tried shall certify upon the record, under his hand, that there was a reasonable cause for making such person a defendant in such action.

20. Where any nolle prosequi shall have been entered upon any count, or as to part of any declaration, the defendant shall be entitled to and have judgment for and recover his reasonable costs in that behalf.

21. In all Writs of scire facias the plaintiff obtaining judgment on an award of execution shall recover his costs of suit upon a judgment by default, as well as upon a judgment after a plea pleaded, or demurrer joined, and that where judgment shall be given either for or against the plaintiff, or for or against a defendant upon a demurrer joined in any action whatever, the party in whose favour such judgment shall be given shall also have judgment to recover his costs in that behalf.

22. Repealed by 12th Vic. cap. 41, sec. 23.

CONSTRUCTION CLAUSE.

23. In any Act of the General Assembly of this Province which may have been passed during or since the first year of Her present Majesty's Reign, or which may be passed at the present or any future Session, the word "person" shall extend to a body politic or corporate, as well as to an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as to several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as to a male; provided always, that those words and expressions occurring in this clause to which more than one

meaning is to be attached, shall not have the different meanings given to them by this clause in those cases in which there may be any thing in the subject or context repugnant to such construction, and in which such construction could not reasonably be supposed to have been intended.

DAMAGES.

24. In all actions in any of Her Majesty's Courts of Record in this Province on the case upon promises, action of debt, action upon any bond conditioned for the payment of money by instalments, or for the performance of agreements or awards where such agreements or awards are expressed only for the payment of any sum or sums of money, and in all actions for any penal sums for not performing any covenants or agreements in indenture, deed, or writing contained, where such covenants or agreements are only for the payment of money, actions of covenant for the payment of any certain sum or sums of money, in which judgment shall be given for the plaintiff upon demurrer or by confession, or by nihil dicit, damages may be assessed, or the truth of all breaches assigned or suggested on the record may be inquired of, and the damages thereupon assessed by the Court in Term time, or by some Judge of the Court wherein the action is brought in vacation, without the intervention of a jury ; provided always, that nothing herein contained shall extend to actions on bonds conditioned for the payment of a single sum of money not payable by instalments ; and upon the production of such assessment, signed by any such Judge, it shall be lawful for the Clerk of the Court to tax the costs and sign judgment, whereupon execution may issue forthwith ; provided always, that no such assessment, or inquiry and assessment shall be made in vacation until the expiration of twenty days after the day on which judgment on demurrer, or confession, or nihil dicit shall have been entered ; provided also, that the defendant in any such action may upon due application therefor, have such assessment, or inquiry and assessment made by a jury, and that the Judge who may be applied to in vacation to make such inquiry and assessment, shall have power to order the same to be made by a jury in the usual manner, when the same may appear proper or expedient.

25. Provided always, that in each case such judgment shall,

as now accustomed, remain, continue, and be as a further security to answer to the plaintiff; and his executors or administrators, such damages as shall or may be sustained for further breach of any condition or covenant in the bond, indenture, deed, or writing contained, upon which the plaintiff may have a scire facias upon the said judgment against the defendant, or against his heirs, terretenants, or his executors or administrators, suggesting such other breach or breaches, and to summon him or them respectively to shew cause why execution shall not be had or awarded upon the said judgment, and if no appearance be entered by the defendant upon such scire facias, the Courts in which such actions have been brought are respectively authorized and empowered to assess such further damages and to award execution for such damages, together with the costs and charges of such proceedings, in manner as hereinbefore directed, and so in case of any further breaches a further assignment or suggestion may be made, and the like proceedings may be had as hereinbefore directed.

26. Provided nevertheless, that nothing in this Act contained shall extend or be construed to prevent the defendant from having a jury summoned to assess the damages upon the breaches assigned, in the manner heretofore accustomed, provided he give notice to the plaintiff of such wish or intention within ten days after judgment is signed in the action, or such scire facias served; and provided also, that the Court in which such action is brought shall have full power to order and direct the damages to be assessed by a jury in any case where the same may appear proper or expedient, and to award execution thereupon.

27. Upon all debts or sums certain, payable at a certain time, or otherwise, the jury on the trial of any issue, or on any inquisition of damages, or the Court or Judge upon any assessment of damages, may, if they shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest, from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument, at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such

demand until the time of payment, provided that interest shall be payable in all cases in which it is now payable by law.

28. The jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all actions of trover or trespass de bonis asportatis, and over and above the money recoverable in all actions on policies of assurance.

29. In all cases where any verdict or assessment of any debt or damages may be given or made for any party in any suit in any such Courts in which interest is or may have been included, under the provisions of this Act or otherwise, and the final judgment of the Court thereupon may have been delayed by the opposite party, either by a rule nisi, demurrer, or otherwise, it shall be lawful for such Court in its discretion, when such verdict or assessment is sustained, to allow interest thereupon at a rate not exceeding six per cent. per annum from the time of such verdict or assessment until the rendering of final judgment therefor.

30. Any of the said Courts may, by general rule, prescribe the form of entry of judgment and execution in cases where such further interest may be so allowed.

EXECUTORS.

31. It shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done in his lifetime.

32. Such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined, provided that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due; provided also, that all and every the powers and provisions in the several Acts of Assembly made relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

33. An action of trespass, or trespass on the case, as the case may be, may be maintained by the executors or administrators

of any person deceased, for any injury to the real estate of such person committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person, and the damages when recovered shall be part of the personal estate of such person; and further, that an action of trespass, or trespass on the case, as the case may be, may be maintained against the executor or administrator of any person deceased, for any wrong committed by him in his lifetime to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executor or administrator shall have taken upon himself the administration of the estate and effects of such person, and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

EXECUTION.

34. Whereas the practice in the Supreme Court of requiring an execution, issuing on any judgment in such Court in the first instance, to be directed to the Sheriff or other officer in the County where the venue is laid, (excepting in proceedings to fix bail) and also the practice of requiring a testatum clause in any execution, are considered useless and unnecessary;—Any such execution may upon any judgment obtained after the passing of this Act, be in the same form and issued in the first instance as if the venue had been laid in the County where such execution is directed to be executed, and that the omission of the usual testatum clause in any such execution shall no longer be considered an irregularity, provided that nothing in this Act contained shall be construed to affect the ordinary proceedings to fix bail.

35. And whereas it is expedient to enlarge the time within which an execution may be issued on any final judgment obtained in any Court of Record in this Province;—Execution on any such judgment may be issued at any time within the period of five years from the time of signing such judgment; and for the purpose of preventing the necessity of any scire facias to revive

such judgment, the issue of such execution within such period shall be deemed as regular and effectual as if the same had been issued within a year and a day from the time of signing such judgment.

36. No goods or chattels whatsoever lying or being in or upon any messuage, lands, or tenements which are or shall be leased for life or lives, term of years, or at will, or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises by virtue of such execution, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises, at the time of the taking of such goods or chattels by virtue of such execution, provided that the said arrears do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such execution is sued out, paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment as he might heretofore have done; and the Sheriff or other officer to whom such execution may have been delivered to be executed, is hereby empowered and required in such case to levy and pay to the party at whose suit the said execution is sued out, as well the money so paid for rent as the money directed to be levied on such execution.

37. Provided always, that nothing in the foregoing Section contained shall be construed to extend to hinder or prejudice Her Majesty, Her Heirs, or Successors, in levying, recovering, or seizing any debts, fines, penalties, or forfeitures due or payable to Her Majesty, Her Heirs, or Successors, but that it shall and may be lawful for Her Majesty, Her Heirs, and Successors, to levy, recover, and seize such debts, fines, penalties, or forfeitures, in the same manner as if this Act had not been passed.

INITIALS.

38. In all actions upon bills of exchange or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declara-

tion, to designate such persons by the same initial letter or letters, or contraction of the christian or first name or names, instead of stating the christian or first name or names in full.

MONEY PAID INTO COURT.

39. It shall and may be lawful for the defendant in all personal actions pending or to be brought in any Court of Record in this Province, (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, or debauchery of the plaintiff's daughter or servant,) by leave of the Court, or a Judge of the Court in which the action is brought, to pay into the said Court a sum of money by way of compensation or amends, in such manner and under such regulations as to the payment of costs and the form of pleading, as the Supreme Court shall, by any rule or orders by them to be from time to time made, order and direct.

NOTES.

40. All notes in writing, payable in specific articles, whether for a sum certain or otherwise, shall be deemed and held prima facie to import that they were given for a valuable consideration, in like manner as promissory notes for the payment of money.

PARTICULARS.

41. And whereas it is considered expedient that a demand of particulars in writing, duly served on the opposite party or his Attorney, should have the like effect as a Judge's order for the same ;—In all actions brought or hereafter to be brought in any Court of Record in this Province, wherein by law particulars may now be required, a demand in writing duly served on the opposite party or his Attorney, shall from the time of such service have the like effect as a Judge's order, that is to say, where served on the plaintiff or his Attorney, such demand of particulars shall operate as a stay of proceedings until the same be given, and where served on the defendant or his Attorney shall, unless the particulars of set off be given within six days after service of the demand, preclude the defendant from giving evidence of his set off on the trial of the cause ; provided that where either party may be dissatisfied with the particulars given in pursuance of such demand, an order of a Judge may be obtained for further particulars as in ordinary

cases; and provided also, that either party may obtain the order of a Judge of the Court in which the action may be, to set aside such demand, or to enlarge the time for giving the particulars, or for such other order in regard to such demand or particulars as the justice of the case may require.

SEVERAL MATTERS.

42. Whereas the practice of requiring a Rule of Court to be taken out for pleading several matters in any cause brought in any Court of Record in this Province, is found inconvenient, and may be abolished, leaving to the Court or any Judge the power to set aside any improper or inconsistent pleas as heretofore accustomed;—In all cases where by the law or practice of the Court a party may be authorized or required to take out a rule to plead several matters, such party may plead such several matters without actually obtaining such rule; and the leave of the Court to plead such several matters, agreeably to the directions of the Statute in such case made and provided, shall always be presumed to have been given; provided that any pleas may be set aside by the Court or Judge, either on the ground of inconsistency, or any other grounds, (except for not taking out such rule) where by law or the practice of the Court pleas can now be set aside.

SPECIAL CASE.

43. It shall be lawful for the parties in any action or information depending in the Supreme Court, after issue joined, by consent, and by order of any Judge of the said Court, to state the facts of the case, in the form of a special case, for the opinion of the Court, and to agree that a judgment shall be entered for the plaintiff or defendant by confession, or of nolle prosequi, immediately after the decision of the case, or otherwise, as the Court may think fit, and judgment shall be entered accordingly.

WRITS, SERVICE OF.

44. The service of any non-bailable writ or process issued out of any Court of Record in this Province may be made by the defendant being personally served with a true copy of the process within the jurisdiction of the Court issuing such process, and affidavit thereof duly made as heretofore accustomed, or in case the defendant has a known place of abode within the jurisdiction of the Court from which such writ or process may

have issued and shall then be within the same, such writ or process may be served at the usual place of abode of such defendant, by delivering a copy of the writ or process with any requisite notice to the wife of such defendant, or to an adult person residing in the house, being a member or inmate of the family of such defendant; provided that such last mentioned service shall not be deemed a good service without the order of the Court out of which the writ or process issued, or a Judge thereof, upon affidavit shewing to the satisfaction of such Court or Judge the circumstances of such service, and that the place where the writ or process was served was at the time of such service the usual place of abode of such defendant.

WITNESSES.

45. And whereas it is expedient to declare the law with respect to witnesses refusing to answer questions which may tend to subject them to civil suits;—A witness cannot by law refuse to answer a question relevant to the matter in issue, the answering of which has no tendency to accuse himself or to expose him to penalty or forfeiture of any nature whatsoever, by reason only or on the sole ground that the answering of such question may establish or tend to establish that he owes a debt, or is otherwise subject to a civil suit either at the instance of Her Majesty or of any other person or persons.

46. Throughout this Act, in the construction thereof, (except there be something in the subject or context inconsistent with or repugnant to such construction) the words or expression “any Court of Record,” shall extend to and mean the Supreme Court, any Inferior Court of Common Pleas, and the Mayor’s Court in and for the City and County of Saint John.

12th VICTORIA—CHAPTER 40.

An Act to consolidate and amend the several Acts of Assembly relating to Summary Actions.

Section.

1. Repeal of Acts.
2. Summary proceeding, in what cases
3. Mode of proceeding.
4. Same as to demurrer, judgment thereon, &c.
5. For what, party may be held to bail.
6. General issue, what evidence under, &c.
7. Damages, how assessed.

Section.

8. Judgment how entered, and execution tested.
9. Duty of Clerk as to judgments.
10. Privilege of Attorney abolished.
11. Venue, how to be stated, &c., and cause tried.
12. How judgment, &c. to affect lands.
13. Removal not allowed.

| Section. | Section. |
|--|---|
| 14. Rules, &c. how made. Ordinary practice to remain till altered. | 17. Fees. |
| 15. What authority necessary to commence action. | 18. Costs where suit not summary; when wrongly brought. |
| 16. Court of Record, what shall mean. | 19. Fees for service of Writs, who alone entitled. |

Passed 14th April 1849.

WHEREAS it is considered expedient that the several Acts of Assembly relating to Summary Actions, both in the Supreme and Inferior Courts of Common Pleas, should be arranged and consolidated into one Act;—

Be it therefore enacted, &c.—1. The several Acts and parts of Acts hereinafter mentioned shall be and the same are hereby repealed, (save as hereinafter otherwise is provided) that is to say: The fifth, sixth, seventh, and eighth Sections of an Act made and passed in the thirty fifth year of the Reign of His Majesty King George the Third, intituled *An Act to regulate the Terms of the Sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the jurisdiction of the same, and for the summary trials of certain actions*; also an Act made and passed in the forty second year of the same Reign, intituled *An Act in addition to an Act to regulate the Terms of the Sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the jurisdiction of the same, and for the summary trial of actions*; also an Act made and passed in the fourth year of the Reign of His late Majesty William the Fourth, intituled *An Act to establish and regulate a Summary Practice in the Supreme Court*; also an Act made and passed in the fifth year of the same Reign, intituled *An Act to amend the Law relating to a Summary Practice in the Supreme Court*; also an Act made and passed in the sixth year of the same Reign, intituled *An Act to amend the Law relating to the Summary Practice in the Inferior Courts of Common Pleas*; also the second and subsequent Sections of an Act made and passed in the sixth year of the Reign of Her present Majesty, intituled *An Act to amend the Law relating to the practice in the Inferior Court of Common Pleas, and render the same uniform in the several Counties*: Provided always, that nothing in this Act contained shall extend to repeal any of the said recited Acts, so far as they or any of them repeal any former Acts; provided also, that any rules of Court or regulations heretofore made, under and by virtue of any autho-

rity given in and by the said recited Acts, shall be and still continue valid and applicable to the provisions of this Act, so far as consistent with the same, until such rules and regulations may be altered ; and provided also, that all actions commenced before the passing of this Act may still be proceeded with to their final termination, in the same manner as if this Act had not been made and passed.

2. The several Courts of Record in this Province are hereby empowered in all actions of debt, covenant, assumpsit, trover, and conversion and trespass to personal property, instituted in any of the said Courts, the sum total whereof shall not exceed twenty pounds, to proceed in a summary way, by the examination of witnesses in open Court, or other legal evidence, to try the merits of such causes, wherein no dilatory plea shall be admitted, and to determine thereon according to law or equity, and enter up judgment accordingly, unless such cause shall be put to issue by a jury, in which case such causes shall be tried according to the rules and practice of said Courts respectively, as in other cases, and the finding of the jury in such cases shall be final.

3. In the said causes the bill of complaint or declaration shall be inserted in the writ, a copy of which, with a copy of the particulars of the plaintiff's demand, in cases where the defendant is entitled to the same, shall be served on the defendant, who shall, at the Term to which the writ is returnable, or within thirty days after, put in bail or enter his appearance in the said action, and if he intend to defend the same, file the general issue, and give a copy thereof to the plaintiff or his Attorney ; and the said cause shall be tried and determined by the jury according to the rules and practice of the Court made or to be made for such purpose ; and in case the defendant shall fail to enter his appearance and plead within the time aforesaid, then judgment may be entered by default in the said cause without any rule to plead ; or if the cause be bailable, and the defendant should fail to enter special bail within the said term of thirty days, then the plaintiff may proceed against the Sheriff or on the bail bond, as in ordinary cases ; provided always, that the Court, or a Judge thereof, may let in the defendant to appear and defend, or give relief to the Sheriff or bail, in like manner and upon such terms

as in actions not summary by the practice of the said Court may be done, after interlocutory judgment or proceedings had against the Sheriff or on the bail bond.

4. In such summary actions the defendant may file a demurrer to the writ, in lieu of the general issue, and give a copy thereof to the plaintiff or his Attorney, which demurrer shall be in a brief and summary form, and notice in writing of the ground thereof shall be given to the plaintiff or his Attorney at the same time with such copy ; and upon such demurrer, the Court shall give judgment according as the very right of the case shall require, without regarding any imperfection, defect, or want of form in the writ ; and if judgment be given for the plaintiff, the Court may proceed to assess the amount to be recovered, in like manner as in the case of judgment by default, and no arrest of judgment shall be allowed in such summary actions.

5. No defendant shall be held to bail in any such summary action unless the plaintiff's cause of action shall amount to upwards of five pounds, and affidavit thereof be made and filed as heretofore accustomed.

6. In such summary actions any matters in bar to the action which in actions not summary ought to be pleaded specially, may be given in evidence under the general issue, provided that notice in writing of such matters be given to the plaintiff or his Attorney at the same time with the plea ; and infancy or coverture of the defendant shall not in any summary action be given in evidence unless notice thereof be given.

7. After the expiration of twenty days after the day on which any such judgment by default shall be entered, the damages or the amount to be recovered, may be assessed by a Judge of the Court in term or vacation ; and upon the production of such assessment, signed by such Judge, it shall be lawful for the Clerk of such Court to tax the costs and sign judgment, whereupon execution may issue forthwith ; provided that the defendant in any such action may, upon due application therefor, have such inquiry and assessment made by a jury, and that the Judge who may be applied to in vacation to make such inquiry or assessment shall have power to order the same to be made by a jury, in like manner as is now the law and practice in cases before the Court in Term ; and pro-

vided also, that a true copy of the taxed bill of costs shall be filed with the judgment papers in all summary actions, for which a fee of one shilling shall be allowed and no more ; and no execution shall issue on any judgment hereafter to be entered, unless such bill of costs shall be so filed.

8. Every judgment to be entered by virtue of this Act, may be entered as the judgment of the Court, although the Court may not be sitting on the day of entry and signing thereof ; and every execution issued by virtue of this Act on any judgment taken in vacation, shall and may bear teste on the day of the issuing thereof, (if issued before the next Term after judgment was so signed) and such judgment and execution shall be as valid and effectual as if the same had been entered of record, signed, and issued in the ordinary course.

9. The Clerk of the said Court shall keep a Book in which shall be entered a memorandum of every final judgment so given, whether by default, or tried or determined in a summary way, under the provisions of this Act, a copy of which said judgment, certified by the Clerk, under the Seal of the Court, shall be evidence of such judgment in all Courts in this Province.

10. No Attorney at Law shall have any privilege in any such summary actions, but may be proceeded against in all respects the same as any other person, and may in like manner be held to bail.

11. The venue in all summary actions within the meaning of this Act, instituted in the Supreme Court, shall be set forth in the margin of the writ, subject to be changed by rule or order of such Court according to the ordinary practice thereof ; and if any cause in which the venue shall be laid or changed in or to any other County than the County of York, shall be defended and put to a jury as aforesaid, the same shall be tried at Nisi Prius in the County in or to which the venue is laid or changed, in such manner and form as the said Supreme Court by general rule or order shall prescribe and direct.

12. No judgment in summary actions shall affect or bind lands ; nevertheless, in summary actions brought in the Supreme Court, lands may be taken in execution, and sold under the like regulations as in other cases.

13. No defendant shall remove any such action into the Supreme Court by habeas corpus or certiorari.

14. The Supreme Court may establish such general rules and regulations in regard to summary actions, to be observed as well in the Supreme Court as in the several Inferior Courts, not repugnant to this Act, as they from time to time consider necessary; provided that the ordinary practice of the said Courts respectively shall regulate the proceedings in such actions in matters not herein or by some general rule or regulation of the Supreme Court specially provided for.

15. No Attorney shall commence any action in any Court in this Province, either by himself or his agent, unless first having been authorized in writing by the plaintiff or his agent.

16. Throughout this Act, in the construction thereof, (except there be something in the subject or context inconsistent with or repugnant to such construction) the words or expression "Courts of Record," shall extend to and mean the Supreme Court, any Inferior Court of Common Pleas, and the Mayor's Court in and for the City and County of Saint John.

17. The Fees attending the prosecution and defence of summary actions shall be as follows:—

For the Judges of the Court.

| | | | |
|---|----|---|---|
| On entry of the cause, - - - - - | £0 | 2 | 0 |
| On final judgment after judgment by default or confession, (including assessment of damages, if any,) - - - - - | 0 | 2 | 6 |

For the Clerk.

| | | | |
|---|---|---|---|
| Signing, sealing, and filing every writ, - - | 0 | 1 | 6 |
| Filing every paper not otherwise provided for, - | 0 | 0 | 6 |
| On entry of cause, including filing writ and return, - | 0 | 1 | 0 |
| On interlocutory judgment and for certificate of same, if required, - - - - - | 0 | 1 | 0 |
| Entry of final judgment, whether after default, confession, demurrer, or trial, - - - | 0 | 2 | 0 |
| Taxing costs, - - - - - | 0 | 1 | 0 |

For the Attorney.

| | | | |
|--|---|----|---|
| Writ, Declaration, (including particulars, if any) - | 0 | 11 | 8 |
| Each copy, - - - - - | 0 | 2 | 6 |
| If bailable, for affidavit and oath, - - - | 0 | 2 | 0 |
| (No copy of Writ to be served on or taxed for bail.) | | | |

| | | | | | | | | |
|--|---|---|---|---|---|----|---|---|
| Alias or pluries writ, &c., | - | - | - | - | - | £0 | 3 | 0 |
| Each copy, | - | - | - | - | - | 0 | 2 | 0 |
| Entry docket on filing the writ, and entry of cause after service, | - | - | - | - | - | 0 | 2 | 6 |
| Interlocutory judgment, | - | - | - | - | - | 0 | 2 | 6 |
| Copy of bill of costs, to file, | - | - | - | - | - | 0 | 1 | 0 |
| All other proceedings after interlocutory to final judgment, | - | - | - | - | - | 0 | 5 | 0 |
| Every execution, | - | - | - | - | - | 0 | 2 | 9 |

[No execution to be taxed or allowed in bills of costs, but to be endorsed on execution and levied for with debt and costs, being 5s., made up thus :—

Attorney, - - - £0 2 9

Clerk, signing, sealing, and
filing, - - - 0 1 6

Sheriff on return, - - - 0 0 9

————— 0 5 0]

And when the suit is defended, all further proceedings by the plaintiff after appearance, and also the costs of defence by the defendant, shall be for the Justices, Clerk, and Attorneys respectively, the same as are now allowed and taxable by law in actions not summary in the Inferior Court of Common Pleas for like services; provided that no fees shall be allowed for making up a record, or for a venire, or any other service not actually performed.

For the Counsel.

On every cause entered for trial, and for every argument before the Court in Term, a fee of not less than eleven shillings and eight pence, nor more than two guineas, as the presiding Judge may determine; provided that no Counsel fee shall be taxed for any argument, except in such cases as the Supreme Court can by law tax for similar services.

For the Sheriff, Constable, Crier, or Witness.

The same as in actions not summary in the Court where the action is brought.

18. If the plaintiff proceed according to the ordinary practice of the Court, in any case in which by the provisions of this Act the proceedings ought to be summary, or when the true debt or damages to be recovered shall not exceed twenty pounds,

although the actual amount of judgment entered may be for a penalty, or on confession, for a larger sum than twenty pounds, with a condition or agreement for the payment of a lower sum, not exceeding twenty pounds, he shall not be entitled in any such case to more costs than if he had proceeded in a summary manner, unless he obtain the order of the Court, or of a Judge of the Court in which the judgment is obtained, for the larger costs, upon good cause shewn therefor.

19. No fees for the execution or service of writs in summary actions, shall in any case be taxable or allowed in the costs, unless such writ shall have been served by the Sheriff or his Deputy, or in cases where the Sheriff is a party, by the Coroner.

Example of Bill of Costs to be taxed under this Act, on a judgment by default.

A. B. vs. C. D.

| | |
|---|---------|
| Writ, - - - - - | £0 11 8 |
| Copy of writ, - - - - - | 0 2 6 |
| Clerk, signing and sealing, - - - - - | 0 1 6 |
| Judge on entry and return of writ after service, - | 0 2 0 |
| Clerk on entry of cause and filing writ and return after service, - - - - - | 0 1 0 |
| Attorney on entry as aforesaid, - - - - - | 0 2 6 |
| Attorney on interlocutory judgment, - - - - - | 0 2 6 |
| Clerk on certificate of same, - - - - - | 0 1 0 |
| Attorney, for copy of bill of costs filed, - - - - - | 0 1 0 |
| Judge on assessment of damages and final judgment, - - - - - | 0 2 6 |
| Clerk, on taxing costs, - - - - - | 0 1 0 |
| Clerk, on final judgment, - - - - - | 0 2 0 |
| Attorney, on proceeding to final judgment, - - - - - | 0 5 0 |
| | <hr/> |
| | £1 16 2 |

Sheriff's fees to be added ; also, if a bailable cause, 2s. for affidavit and oath.

13th VICTORIA—CHAPTER 32.

An Act in further amendment of the Law.

Section.

1. What Section of what Act repealed, and mode of pleading.
2. What notice to be given under plea, and what evidence. Exception.
3. Notice, when amended.

Section.

4. Notice, in what form.
5. Verdict how taken, and costs when payable.
6. On assessment of damages, what costs for Courts, &c.

Passed 26th April 1850.

WHEREAS the practice of pleading several matters of defence to the same cause of action, frequently leads to great delay and expense, and tends more to defeat than to advance the cause of justice;—

Be it therefore enacted, &c.—1. The fourth Section of an Act of Parliament made and passed in the fourth year of the Reign of Her Majesty Queen Anne, intituled *An Act for the amendment of the Law, and the better advancement of Justice*, which has hitherto been considered in force in this Province, be and the same is hereby declared to be repealed and of no force or effect within this Province, any usage or practice to the contrary notwithstanding; provided always, that the defendant in any action or suit brought against him as an executor or administrator, or the plaintiff or defendant in any action of replevin in any Court of Record in this Province, may plead as many matters thereto as he shall think necessary to his defence, in the same manner and subject to the same provisoes, costs, and certificates, as if this Act had not been made and passed.

2. The defendant in any action in any Court of Record in this Province, (except actions of replevin, or where he is sued as executor or administrator) may, in addition to any matter which may be by him pleaded in bar to such action, and put to issue for trial by a jury, give in evidence on the trial thereof any other matter of defence whatsoever; provided that notice of such other matter be given in writing to the plaintiff or his Attorney, at the time of the delivery of the plea, (which notice may be proved on the trial to have been delivered either *ore tenus*, or by affidavit of the person delivering the same); and provided also, that any such other matter of defence may, without any previous notice thereof, be met on the trial by evidence of any matter which might have been pleaded thereto by way of replication, in case such other matter had been pleaded, and so *toties quoties* by either party.

3. The defendant may be allowed either by the Court or any Judge thereof wherein the action is brought, to amend or add to such notice in like manner and upon the same terms as defendants can now by the practice of the Court be allowed to add or amend pleas.

4. The notice of any such other matter of defence shall be in a general and brief form, and shall be deemed sufficient unless the plaintiff shall make it appear to the Court or Judge before whom the trial is had, that he has been misled by the defect or generality of such notice.

5. And whereas the insertion of several counts in the declaration for the same subject matter of complaint, often tends to unnecessary prolixity and expense;—Where there is more than one count in the plaintiff's declaration, and he fails to establish a distinct subject matter of complaint in respect to each count, a verdict and judgment may at the instance of the defendant pass against the plaintiff upon each count which he shall have so failed to establish, and he shall also be liable to the defendant for the reasonable costs occasioned by such count, including those of the evidence, pleading, and notices relating to such count, unless the Judge before whom the trial is had shall certify that there was a reasonable cause for the insertion of such count.

6. In action brought on any note, bill of exchange, bond, or other writing, where damages may be assessed by the Court or a Judge, after judgment on demurrer, or by default, costs only shall be allowed the plaintiff for one count in the declaration, or in case there be several causes of action in the same declaration, on such counts as the damages may be assessed upon, unless the Court or Judge making the assessment shall certify that there was a reasonable cause for the insertion of other counts.

13th VICTORIA—CHAPTER 33.

An Act to remove doubts as to the abbreviation of the names of parties and persons in proceedings at Law or in Equity.

Section.

1. Names of parties, how designated in legal proceedings.

Section.

2. Plea in abatement, when and how allowed for misnomer, &c., and further proceedings.

Passed 26th April 1850.

WHEREAS it has been the almost invariable practice in this Province, instead of setting out the whole christian or first name or names of any of the parties in suits at law or in equity, .

to designate such persons by one christian or first name, and using initial letters, contractions, or abbreviations for any other christian or first name such persons may have ; which practice has, without the least disadvantage, tended to shorten proceedings : And whereas doubts have lately arisen whether such mode of proceeding is regular, and whether it is not necessary to set out the whole christian or first names at length ; for removal whereof,—

Be it declared and enacted, &c.—1. It shall not be necessary in any process, pleading, affidavit, or other proceeding whatsoever, in any Court of Law or Equity in this Province, to designate any of the parties or any other person whose name may be introduced into any such proceeding, by any other than one christian or first name, being a name commonly used by such person himself or herself, or by which he or she may generally have been known or called, and to insert initial letters, or usual contractions, or abbreviations for any other christian or first name, where such person may have more than one ; and no process, pleading, affidavit, or other proceeding whatsoever shall be vacated, annulled, set aside, or be demurred to, or otherwise affected, or treated as nugatory, defective, or irregular, by reason of the insertion of initial letters, or other usual contractions or abbreviations of christian or first names, where one christian or first name commonly used by the person, or by which he or she may be generally called or known, is set out at length ; provided always, that nothing herein contained shall extend or be construed to apply to the insertion of names in the recital or setting forth of any deed or paper where it is necessary, or it is purported to recite or set out such deed or paper *in hæc verba* ; and provided also, that nothing herein contained shall extend or be construed to limit or control the operation of the thirty eighth Section of an Act passed in the twelfth year of Her Majesty's Reign, intituled *An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law*.

2. No plea in abatement for misnomer for not setting out at length the right christian or first name of any defendant where one such name is set out, and another or others designated by initial letters, contractions, or abbreviations, shall be allowed

or filed, unless the same is accompanied by an affidavit of such defendant, that he or she doth not commonly use and is not generally known by that name, but by some other and which of the names designated by initial letters, contractions, or abbreviations, and further, that he or she hath not in the matter in contest in such suit or other transaction with the plaintiff or plaintiffs, described or designated himself or herself by that name; and in case of any plea in abatement being duly filed, with such affidavit, it shall be open to the plaintiff or plaintiffs, by application to the Court in which such proceeding may be had, or any Judge thereof, to have the name in the declaration or writ altered and amended so as to conform to the name set out in such plea in abatement, upon such terms as such Court or Judge may prescribe; and so in case of motion to set aside any proceeding for such misnomer, the Court or Judge shall have the same power to alter and amend the proceeding objected to on that ground on like conditions.

13th VICTORIA—CHAPTER 37.

An Act to regulate the proof of certain documents in Actions wherein Foreign Corporations doing business in this Province are parties.

Section 1.—What proof of Contract of Foreign Corporation sufficient; exception,

Passed 26th April 1850.

WHEREAS in and by the sixteenth Section of an Act made and passed in the twelfth year of Her present Majesty's Reign, intituled *An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law*, it is amongst other things enacted—"That in the case of a Foreign Corporation, or of any body politic or corporate, not being established or incorporated within this Province, and which may enter into any contract or engagement, or transact any business therein, by their known accredited agent or officer; a writ of summons may be served upon such accredited agent or officer within this Province, and that such service should be valid:" And whereas in actions against such Foreign Corporation, or body politic or corporate, upon any contract or engagement entered into by the said Foreign Corporation, or body politic or corporate, doing business in this Province,

by their agent or other accredited officer as aforesaid, the proof of such contract or engagement is very difficult to be obtained, owing to the necessity of the Seal of such Foreign Corporation, or body politic or corporate, and the signatures of the officers of said Foreign Corporation, or body politic or corporate, being strictly proved in those cases where the existence of such contract or engagement is put in issue: And whereas a total defeat of justice might be occasioned for want of such strict proof as aforesaid;—

Be it therefore enacted, &c.—1. From and after the passing of this Act, upon any trial of any cause before any Court in this Province, wherein it shall be necessary to prove any contract or engagement entered into by any Foreign Corporation, or body politic or corporate, doing business in this Province, it shall only be necessary for the party or parties, plaintiff or plaintiffs, defendant or defendants, seeking to prove such contract or engagement, or to put the same in evidence before such Court, to prove that such contract or engagement has been duly signed or issued by the accredited agent or officer of such Foreign Corporation, body politic or corporate, in this Province; and upon such proof having been given, the Court before which such trial shall be had shall admit the same in evidence, and the same shall be considered as duly proved without any other or further evidence of the execution thereof by such Foreign Corporation, body politic or corporate, any law, usage, or custom to the contrary notwithstanding; provided always, that nothing in this Act contained shall be construed to extend to any contracts or engagements already entered into and now in force in this Province.

14th VICTORIA—CHAPTER 2.

An Act to make further provision for the service of Non-Bailable Process.

Section.

1. Non-bailable process, how served on non-residents.

Section.

2. How, on temporary absence.
3. Service, by whom.

Passed 15th March 1851.

WHEREAS in and by the several Acts of Assembly regulating the service of non-bailable process issuing out of the

several Courts of Law in this Province, no sufficient provision is made for the case of persons carrying on business therein, who may have a place of business but no place of residence in this Province, or for persons who may have temporarily left the Province for the purpose of avoiding the service of Process ;—

Be it therefore enacted, &c.—1. In all cases where, after the passing of this Act, non-bailable process shall be issued out of the Supreme Court of this Province, or any of the Inferior Courts of Common Pleas, against any person or persons carrying on business in this Province, who may have a place of business but no place of residence therein, the service of such process may be effected by leaving a copy of the same, with the ordinary English notice thereunder written, of the purport and effect of such process, at the place of business of said defendant or defendants, with some agent, or clerk, or adult person in the employment of the defendant or defendants in such business, and known to the person serving the same as being an agent, clerk, or person in the employment of the defendant or defendants in such business.

2. The service of any process issued out of the Supreme Court, or of any Inferior Court of Common Pleas, after the passing of this Act, against any person or persons who may have temporarily left or who may temporarily leave this Province for the purpose of avoiding the service of process, may be made as provided in and by the first Section of this Act, and as provided in and by the several Acts of Assembly making provision in lieu of personal service.

3. Provided always, that no service of any process made by virtue of this Act shall be deemed good service, unless the same shall have been made by the Sheriff of the County to whom the same shall have been directed, or his deputy, nor without an affidavit by the party so serving the same, setting forth the facts, time and place of such service, and if under the second Section of this Act, the reasons for believing that such defendant or defendants had left the Province to avoid service of process, and an order of a Judge of the Court out of which such process issued, thereupon made, ordering such service to be deemed and taken as good service ; and provided further, that nothing herein contained shall be construed to

repeal any of the Acts of Assembly regulating the service of process or any parts thereof otherwise than as the same may be inconsistent herewith.

14th VICTORIA—CHAPTER 3.

An Act relating to the competency of Witnesses in certain cases.

Section 1.—When witness not incompetent from liability to rate:

Passed 15th March 1851.

Be it enacted, &c.—1. No person by reason of being rated, or liable to be rated, or otherwise, for rates and taxes in any City, County, Town, or Parish within this Province, shall be deemed and taken thereby to be an incompetent witness in any case in which the officers of such City, County, Town, or Parish, or any one or more of them, acting for and on behalf of such City, County, Town, or Parish, shall be a party, or where the said City, County, Town, or Parish, may in any manner be affected, nor in any case wherein a pecuniary penalty or any part thereof shall be given to the use of the Poor of such City, County, Town, or Parish, or otherwise for the benefit or exoneration of such City, County, Town, or Parish, or the inhabitants thereof.

14th VICTORIA—CHAPTER 20.

An Act in further amendment of the Law.

Section.

1. Special demurrer abolished; exception.
2. Amendments, how & by whom allowed.

Section.

3. Joint demise of lessors sufficient in ejectment.

Passed 30th April 1851.

Be it enacted, &c.—1. No special demurrer in any of the Courts of Common Law in this Province shall in any case hereafter be allowed, any law, usage, or custom to the contrary notwithstanding; provided always, that in all cases of duplicity, informality, or other ground of special demurrer under the present practice of the Supreme Court, in any pleading, the same may be objected to before any Judge of the said Courts, and allowed or refused on such terms as may be deemed just.

2. Amendments in any process, pleading, or other legal proceeding, shall at any time be made and allowed, with or without a rule or order for that purpose, by any Judge or Court at discretion, either at Chambers, at Nisi Prius, or at Bar, and in no case shall an amendment be refused unless it shall be apparent to the Judge or Court, by affidavit or otherwise, that manifest injustice to the opposite party would be the result of such amendment, and that such injustice could not be prevented by granting further time to the opposite party, and the amendments may be made on such terms as to payment of costs and other conditions as may be deemed necessary.

3. In all actions of ejectment a joint demise of the lessors of the plaintiff shall in all cases be sufficient, and shall be deemed to be joint or several as the facts of the case may require, and shall have all the force and effect that several demises now have or heretofore have had.

4th GEORGE 4th—CHAPTER 18.

An Act in addition to an Act made and passed in the twenty sixth year of the Reign of His late Majesty King George the Third, intituled *An Act for enabling the Justices of the Supreme Court to try all Causes at Nisi Prius, and authorizing Attorneys of the Supreme Court to practice in the Inferior Court of Common Pleas in this Province.*

Section 1.—What Attorneys may practice in Common Pleas.

Passed 27th March 1823.

WHEREAS in and by an Act made and passed in the twenty sixth year of the Reign of His late Majesty King George the Third, intituled *An Act for enabling the Justices of the Supreme Court to try all Causes at Nisi Prius, and authorizing Attorneys of the Supreme Court to practice in the Inferior Courts of Common Pleas in this Province*, it is enacted, that all and every of the Attorneys of the Supreme Court may commence, prosecute, or defend any action or suit for his or their clients, in any Inferior Court of Common Pleas in this Province ;—

Be it enacted, &c.—1. From and after the passing of this Act, it shall not be lawful for any person not being an Attorney of the Supreme Court, to commence, prosecute, or defend

any action or suit for any person as his client, in any Inferior Court of Common Pleas in this Province, any law, usage, or custom to the contrary notwithstanding.

5th WILLIAM 4th—CHAPTER 29.

An Act to regulate the Fees in Actions not Summary in the Inferior Courts of Common Pleas, and to restrain the removal of such Actions to the Supreme Court.

Section.

1. Fees, how regulated.

Section.

2. Repealed.

Passed 17th March 1835.

WHEREAS the Fees in actions not summary in the Inferior Courts of Common Pleas in this Province, and in the Mayor's Court of the City of Saint John, required to be defined and established by law: And whereas the removal of causes from the said Courts to the Supreme Court after issue joined, or interlocutory judgment signed, has been found productive of great inconvenience and delay to suitors;—

Be it enacted, &c.—1. The Fees in all actions hereafter instituted in the respective Inferior Courts of Common Pleas in this Province, or in the Mayor's Court of the City of Saint John, not coming within the summary jurisdiction of the said Courts, shall be taxed and regulated by the following Table of Fees, so far as relates to the Judges, Clerks, Attorneys, and Counsel, instead of by the Ordinance of the Governor and Council as heretofore accustomed.

TABLE OF FEES

To be allowed and taxed in actions not summary in the Inferior Courts of Common Pleas.

FOR THE JUDGES.

On the entry of every cause not settled at the return of the writ, five shillings.

On the entry of every cause for trial, three shillings and four pence.

On every judgment, three shillings and four pence.

Taking special bail and entering the same in bail book, three shillings.

Every summons granted or order made out of Court, two shillings and six pence.

Taking a deposition *de bene esse*, five shillings.

Justification or disallowance of bail, two shillings.

Appointment of a guardian or prochein ami, two shillings and six pence.

Taxing a bill of costs, two shillings.

Render of a defendant in discharge of bail (including the commitment or order for taking into custody), two shillings and six pence.

Every affidavit, for each depònent, one shilling.

The same fee to any person authorized to take affidavits to be read in Court.

CLERK.

Signing and sealing every writ or process, (including the filing of the docket or precipe therefor,) subpcœna excepted, one shilling.

Entry of every cause, one shilling.

Entry of every rule, one shilling.

Entry of appearance or filing common bail, one shilling.

Filing every process, pleading, or other paper, and marking the same as filed, six pence.

Copy of every common rule, one shilling.

Entering interlocutory judgment, one shilling.

Entering admission of guardian or prochein ami, one shilling.

Every rule or order entered in the minutes, one shilling.

If more than one folio, for every additional folio, one shilling.

Copy or transcript from the minutes or records, per folio, one shilling.

(A folio in all cases to include one hundred words.)

Every search made in the files or minutes, one shilling.

Signing and sealing every subpcœna, and filing precipe, if any, six pence.

Entering a cause for trial, one shilling.

Calling and swearing jury, and taking and entering verdict or non-suit, or entry of discharge of jury, two shillings.

Swearing every witness or constable, and reading every paper in evidence, six pence.

Taxing costs where a trial has been had, two shillings.

Taxing costs in any other case, one shilling.

Making return to every writ of error, habeas corpus, or certiorari served on him, (exclusive of copy or transcript), two shillings.

Every certificate under the seal of the Court, (including the seal), two shillings.

On all moneys paid into Court to one hundred pounds, per pound, six pence.

All above one hundred pounds, per pound, three pence.

When such money is paid in by a defendant on a plea of tender or order obtained by him for paying money into Court, the poundage shall be paid to the Clerk in addition to the money paid in, and may be included in the defendant's taxable costs.

ATTORNEY.

Taking instructions to commence action, six shillings and eight pence.

Writing letter to defendant requiring settlement before action brought, five shillings.

Preparing every process in a cause excepting subpœna or writ of inquiry, three shillings.

The precipe or docket thereof, six pence.

Copy of the writ and notice, (when requisite) one shilling and six pence.

Drawing every declaration and copy to file, not exceeding ten folio, five shillings.

For every additional folio above ten, (when necessary) one shilling.

Every copy of declaration for adverse party, or when otherwise requisite, per folio, six pence.

Taking instructions to defend action or to enter special bail, six shillings and eight pence.

Special bail piece, one shilling and four pence.

Common bail or appearance, one shilling.

Drawing general issue, one shilling.

Each copy thereof, six pence.

Drawing every special plea, per folio, one shilling.

Each copy thereof, per folio, six pence.

Preparing a writ of inquiry of damages, four shillings, (or at the rate of one shilling per folio.)

Making up judgment roll, per folio, nine pence.

Attending assessment of damages before Court, three shillings and four pence.

Attending assessment of damages before jury of inquiry, six shillings and eight pence.

Every subpœna, two shillings.

Every copy thereof or ticket, six pence.

Service on every witness, one shilling.

Attending the examination of a witness de bene esse, six shillings and eight pence.

- Every notice, not exceeding one folio, one shilling.
For every additional folio, one shilling.
Every necessary copy thereof, per folio, six pence.
Serving every notice or other paper, one shilling.
Every summons or order of a Judge, (including attendance) three shillings and four pence.
Attending a Judge on summons in controverted cases, six shillings and eight pence.
Every necessary attendance before a Judge or the Clerk (not otherwise provided for), one shilling.
Preparing brief for trial or argument, six shillings and eight pence.
On entry of a cause for trial, five shillings.
Preparing every writ of scire facias, per folio, one shilling.
Preparing bill of costs where a trial has been had, three shillings.
In any other case, one shilling and six pence.
Half of the above fees for a copy of bill of costs for client or adverse party when requisite, and no charge for a bill of costs to be allowed in any case before the entry of the cause on the return of the writ.
Preparing every affidavit or other paper not otherwise provided for, for the original, per folio, one shilling.
Every additional copy, per folio, six pence.
Every motion actually made in open Court and entered on the minutes, three shillings and four pence.

COUNSEL FEES.

- Perusing and signing demurrers, special pleas, replications, rejoinders, &c. to which the signature of Counsel is necessary, eleven shillings and eight pence.
This fee to be allowed only for one signature, when more than one special pleading in a cause are prepared and delivered at the same time.
On every cause entered for trial and for every argument before the Court, not less than one guinea nor more than three guineas, at the discretion of the presiding Judge.
No other Fees than those herein before provided for are to be taxed in behalf of the persons in this Table named, in actions not summary in the Inferior Courts of Common Pleas.

2. Repealed by 13th Vic. cap. 47.
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13th VICTORIA—CHAPTER 47.

An Act to consolidate and amend the Laws to provide for the administration of Justice in the Inferior Courts of Common Pleas and General Sessions of the Peace.

Section.

1. Repeal of Acts.
2. Terms of the Courts.
3. Sittings for Saint John.
4. Jurisdiction.
5. Actions, how removed.
6. Bail, for what amount.
7. What Commissioners may take affidavits.

Section.

8. Damages, how assessed in vacation.
9. What Attorneys may practice.
10. Commissioners to take Bail, how appointed.
11. When General Sessions may be held, and adjournments.

Passed 26th April 1850.

Be it enacted, &c.—1. The second Section of an Act made and passed in the twenty sixth year of the Reign of King George the Third, intituled *An Act for enabling the Justices of the Supreme Court to try all causes at Nisi Prius, and authorizing Attorneys of the Supreme Court to practice in the Inferior Courts of Common Pleas within this Province*; also an Act made and passed in the thirty first year of the said Reign, intituled *An Act for altering the times of holding the Courts of General Sessions of the Peace and Inferior Court of Common Pleas in the Counties therein mentioned*; also the first, second, third, and fourth Sections of an Act made and passed in the thirty fifth year of the said Reign, intituled *An Act to regulate the Terms of the Sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the jurisdiction of the same, and for the summary trials of certain actions*; also an Act made and passed in the forty fifth year of the said Reign, intituled *An Act to alter one of the Terms of holding the Inferior Court of Common Pleas for the County of York*; also an Act made and passed in the sixtieth year of the said Reign, intituled *An Act to authorize and empower the Inferior Courts of Common Pleas in the respective Counties of this Province to appoint Commissioners to take Bail in the same Courts*; also an Act made and passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to authorize the enlargements of the Sittings of the Courts of General Sessions of the Peace and Inferior Courts of Common Pleas in this Province*; also an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to alter the time of holding the November Term of the Inferior Court of Common Pleas of the County of Gloucester*; also the

second Section of an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to regulate the Fees in actions not Summary in the Inferior Courts of Common Pleas, and to restrain the removal of such actions to the Supreme Court*; also an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An Act to alter the additional Terms of the Inferior Court of Common Pleas for the County of Kent*; also an Act made and passed in the second year of the Reign of Her present Majesty Queen Victoria, intituled *An Act to repeal the Act establishing the times of holding the Courts of General Sessions of the Peace and Inferior Courts of Common Pleas in the County of Northumberland, and for enlarging the times of the Sittings of the said Courts, and for making other and better regulations concerning the same*; also an Act made and passed in the third year of the said last mentioned Reign, intituled *An Act for altering the times of holding one of the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace, and also one of the additional Terms of the said Inferior Court of Common Pleas, for the County of King's*; also an Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to alter the time for holding the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace for the County of York*; also an Act made and passed in the fourth year of the said last mentioned Reign, intituled *An Act to alter the times for holding the Terms of the Inferior Courts of Common Pleas and General Sessions of the Peace for the County of Sunbury*; also an Act made and passed in the fifth year of the said last mentioned Reign, intituled *An Act to authorize Commissioners for taking Affidavits in causes pending in the Supreme Court, to take Affidavits in causes pending in the several Inferior Courts of Common Pleas for the several Counties in this Province*; also the first Section of an Act made and passed in the sixth year of the said last mentioned Reign, intituled *An Act to amend the Law relating to the Practice in the Inferior Courts of Common Pleas, and render the same uniform in the several Counties*; also an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An Act for altering the times of holding one of the Terms of the General Sessions of the Peace and Inferior*

Courts of Common Pleas of the County of Carleton ; also an Act made and passed in the eighth year of the said last mentioned Reign, intituled *An Act to alter the time of holding the Terms of the Inferior Court of Common Pleas and General Sessions of the Peace for the County of Gloucester* ; also the third Section of an Act made and passed in the seventh year of the said last mentioned Reign, intituled *An Act for the division of the County of Carleton into two Counties, and to provide for the Government and Representation of the new County* ; be and the same are hereby repealed : Provided that nothing in this Act contained shall extend to repeal any of the said recited Acts, so far as they or any of them repeal any former Acts ; provided also, that any rules of Court or regulations heretofore made under and by virtue of the authority given in and by the said recited Acts, shall be and continue in full force and effect ; and all actions, suits, prosecutions, and proceedings of all kinds commenced, had, or taken before the passing of this Act, shall be continued and prosecuted to their final termination and satisfaction, in the same manner as if this Act had not been passed ; and all fines and penalties imposed under the authority of any of the Acts hereby repealed ; and all bonds, recognizances, judgments, or securities, and all real and personal property held by Justices of the Peace in any County of this Province ; and all leases, contracts, or conveyances made to or by any such Justices or Courts respectively ; and all appointments of Town and County Officers, and every matter or thing done under the authority of any of the said Acts hereby repealed, shall be and remain good, valid, and effectual to all intents and purposes as if the said Acts had not been repealed.

2. There shall be in each and every County in this Province two Terms of the Inferior Court of Common Pleas at which juries shall be summoned and required to attend for the trial of all causes brought to issue in the said Courts, and two additional Terms for the return of Writs and the transaction of other business therein, but at which no juries shall be summoned to attend, to wit :—For the County of York, on the second Tuesdays in January and June ; additional Terms, the third Tuesday in March and the second Tuesday in October : For the County of Sunbury, the second Tuesday in January and

the third Tuesday in June ; additional Terms, third Tuesdays in March and October : For Queen's County, the fourth Tuesdays in January and June ; additional Terms, the fourth Tuesdays in April and October : For King's County, the first Tuesday in March and third Tuesday in October ; additional Terms, the first Tuesdays in January and May : For the County of Charlotte, the second Tuesday in April and the third Tuesday in September ; additional Terms, the second Tuesdays in July and December : For the County of Westmorland, on the third Tuesdays in June and November ; additional Terms, the first Tuesday in April and the second Tuesday in September : For the County of Northumberland, on the second Tuesdays in January and July ; additional Terms, the first Tuesdays in May and October : For the County of Kent, on the second Tuesday in January and fourth Tuesday in June : additional Terms, the last Tuesdays in April and September : For the County of Gloucester, on the first Tuesdays in January and July ; additional Terms, the first Tuesday in April and last Tuesday in October : For the County of Carleton, on the first Tuesday in January and fourth Tuesday in June ; additional Terms, the first Tuesdays in March and October : For the County of Restigouche, on the first Tuesday in January and the second Tuesday in July ; additional Terms, on the second Tuesdays in April and October : For the County of Albert, on the fourth Tuesday in June and second Tuesday in November ; additional Terms, on the second Tuesdays in March and September : For the County of Victoria, on the first Tuesday in July and second Tuesday in January ; additional Terms, on the second Tuesdays in March and October : and such Terms and additional Terms shall be deemed to continue and include the whole week from Tuesday to Saturday inclusive ; and it shall be lawful for the said Courts at the Terms at which juries are summoned to attend, if the Justices of the said Court respectively, or a majority thereof, shall deem the same expedient, to adjourn their Sittings or either of them to the week next succeeding the said Terms respectively ; and all causes and matters heard and determined, and all business transacted on any day during the week next succeeding the said Terms respectively, pursuant to such adjournment, shall have the same and the like force and effect to all

intents and purposes as if heard, and determined, and transacted at any time during the said Terms respectively ; and all parties concerned shall take due notice of such adjournment from time to time, and govern themselves accordingly ; provided always, that no trials of any issues by jury shall be had at any such adjourned Sittings.

3. In the City and County of Saint John the Sittings of the Inferior Court of Common Pleas shall be holden on the third Tuesday in March, and the first Tuesdays of June, September, and December in each and every year, and continue from Tuesday until Saturday in each Term respectively.

4. The jurisdiction of the said Courts respectively shall be considered to extend to all transitory actions, and all other actions arising within any other place or County, except where the title to lands shall come in question, and shall in those cases, except as aforesaid, have a concurrent jurisdiction with the Supreme Court of this Province ; and that the said Justices of the Inferior Court of Common Pleas be and are hereby empowered to issue subpœna or subpœnas for any witness or witnesses residing in any part of the Province ; and that all subpœnas so issued from the said Justices of the said Inferior Court of Common Pleas shall be of the same validity to compel the appearance of the witness or witnesses as if such subpœna or subpœnas had been issued from the Inferior Court of Common Pleas where the witness or witnesses reside.

5. It shall be lawful for any defendant or defendants in any suit, not summary, now or hereafter pending in either of the said Inferior Courts of Common Pleas, at any time before interlocutory judgment signed or issue joined in such suit, to remove the same by habeas corpus into the Supreme Court, or after judgment is obtained in any such suit, to bring a writ of error to remove the same into the Supreme Court.

6. In cases where the plaintiff's cause of action shall amount to upwards of five pounds, and affidavit thereof made and filed, the defendant or defendants may be held to bail, as has been heretofore accustomed ; and such affidavit may be made before the Chief Justice or any other Justice of the Supreme Court, or a Justice of the Inferior Court of Common Pleas, or any Commissioner appointed for taking affidavits to be read in the Supreme Court.

7. The several Commissioners now appointed, and that may be from time to time hereafter appointed to take affidavits in causes pending and to be pending in the Supreme Court, shall be and they are hereby severally authorized to take and receive all and every such affidavit and affidavits, as any person or persons shall be willing and desirous to make before them severally, in or concerning any cause, matter, or thing pending or to be pending, or in any wise concerning any of the proceedings of any of the said Inferior Courts of Common Pleas for the several Counties, as the Clerks of the said Inferior Courts respectively do use to do ; provided that no such affidavit shall be taken by any Commissioner who is the Attorney in the cause to which such affidavit may relate, except affidavits to hold to bail.

8. In all actions in the Inferior Courts of Common Pleas in this Province in which the said Courts may be authorized by law after judgment by default to inquire of the truth of any matters, or to assess the damages or the amount to be recovered without the intervention of a jury, such inquiry and assessment may be made by a Judge of the said Court in vacation ; and upon the production of such assessment signed by such Judge, it shall be lawful for the Clerk of such Court to tax the costs and sign judgment, whereupon execution may issue forthwith ; provided always, that no such inquiry or assessment shall be made in vacation until the expiration of twenty days after the day on which the judgment by default shall have been entered ; provided also, that the defendant in any such action may, upon due application therefor, have such inquiry and assessment made by a jury, and that the Judge who may be applied to in vacation to make such inquiry or assessment shall have power to order the same to be made by a jury in like manner as is now the law and practice in cases before the Court in Term.

9. All and every of the Attorneys of the Supreme Court may commence prosecutions, or defend any action or suit for his or their clients in any Inferior Court of Common Pleas within this Province.

10. It shall and may be lawful for the said Courts to appoint Commissioners to take bail in the same Courts in such part of their respective Counties as the majority of the Justices of any

of the said Courts in Term assembled shall at any time or times see fit and necessary ; and such Commissioners to take bail as aforesaid, shall be appointed by the Courts in the same manner as Commissioners to take bail are appointed by the Supreme Court.

11. In each of the said several Terms of the Inferior Courts of Common Pleas in each and every County of this Province there shall be holden a Court of General Sessions of the Peace for the transaction of all business within the competency of such Court of General Sessions ; and the said Justices in Sessions, or a majority thereof, shall have power to adjourn the Sitting of the said Courts or either of them to the week next succeeding the said Terms respectively ; and all causes and matters heard and determined, and all business transacted on any day during the week next succeeding the said Terms respectively, pursuant to such adjournment, shall have the same and the like force and effect to all intents and purposes as if heard and determined and transacted at any time during the said Terms respectively ; and all parties concerned shall take due notice of such adjournment from time to time and govern themselves accordingly ; provided always, that no trials of any issues by jury shall be had at any adjourned Sittings.

16th VICTORIA—CHAPTER 22.

An Act for altering the time of holding one of the Courts of General Sessions of the Peace and Inferior Court of Common Pleas in the County of Westmorland.

Section.

1. What Term altered, &c.

Section.

2. Repeal of Act, &c.

Passed 14th April 1853.

WHEREAS the Terms for holding the Courts of General Sessions of the Peace and the Inferior Court of Common Pleas in the County of Westmorland have been found inconvenient ; for remedy whereof,—

*Be it enacted, &c. as follows:—*1. The said Courts shall be hereafter holden on the second Tuesday in December, instead of the third Tuesday in November in each and every year ; provided always, that no process shall abate or be discontinued by reason of the alteration of the said Term, but shall

and may be proceeded upon, heard, and determined at the Term herein appointed, in the same manner as they might have been proceeded upon had no alteration been made.

2. An Act made and passed in the fourth year of the Reign of His Majesty King George the Fourth, intituled *An Act for altering the Terms of holding the Court of General Sessions of the Peace and Inferior Court of Common Pleas in the County of Westmorland*; also so much of an Act made and passed in the thirteenth year of the Reign of Her present Majesty, intituled *An Act to consolidate and amend the Laws to provide for the administration of Justice in the Inferior Courts of Common Pleas and General Sessions of the Peace*, as provides for the holding of the Inferior Court of Common Pleas and General Sessions of the Peace in and for the said County of Westmorland on the third Tuesday in November, be and the same are hereby repealed.

11th VICTORIA—CHAPTER 16.

An Act to provide for the better payment of Petit Jurors attending the several Courts of Record in this Province.

Section.

1. When civil cause to be entered for trial.
2. What deposit for Jury fund.
3. How and by whom fund divided.

Section.

4. Construction of terms.
5. Limitation.

Passed 30th March 1848.

WHEREAS by the Laws now in force, no adequate allowance is made for the services of Jurors, and it being deemed just, reasonable, and expedient that Petit Jurors should receive compensation for their services in all civil actions;—

Be it therefore enacted, &c.—1. When any issue joined in any civil action brought in any Court of Record in this Province, shall be for trial before a jury, the names of the parties therein shall on the first day of the Sittings of the Court at which the trial is to take place, be entered on a Trial Docket, and at such hour as the Court may after the opening thereof direct, unless the Court for some special and reasonable ground of excuse, to be shewn by affidavit, shall order and allow the same to be entered on such Trial Docket at a subsequent hour or day.

2. On the entry of any such cause as aforesaid, the party

entering the same shall deposit in the hands of the Clerk with whom such entry is made, the sum of thirty shillings when the cause is not summary, and the sum of fifteen shillings when the cause is summary, to be applied towards a fund for the payment of petit jurors attending such Court, as hereinafter provided, which deposit shall be in lieu of all other fees heretofore allowed to jurors, and shall be costs in the cause.

3. When the jury summoned for and in attendance at such Court shall have been discharged from further attendance, the Court shall divide such fund among the jurors who may have attended such Court, having regard to the number of days each juror has attended, and distance of his travel from place of residence, allowing in such division twenty miles travel to Court as equal to one day's attendance, and so on in like proportion; provided that no greater amount than four shillings shall be allowed to any juror for any one day's attendance; and provided also, that when the jury may have been discharged from further attendance before all the causes so entered for trial may have been tried or otherwise disposed of, such Court may divide any portion of such fund as may be thought reasonable among the said jurors, leaving the residue of the fund to be in like manner afterwards divided among the jurors who may be summoned to attend for the trial of the remaining causes on said Trial Docket; and provided also, that nothing in this Act contained shall extend or be construed to extend to special jurors.

4. In the construction of this Act, except there be something in the subject or context inconsistent with or repugnant to such construction, the word "Court" shall extend to and mean the Supreme Court of Judicature, any Assizes or Sittings for the trial of causes brought to issue in the said Supreme Court, any Inferior Court of Common Pleas in this Province, and the Mayor's Court in and for the City and County of Saint John.

5. This Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and fifty one, and no longer.

14th VICTORIA—CHAPTER 26.

An Act to revive and continue an Act to provide for the better payment of Petit Jurors attending the several Courts of Record in the Province.

Section 1.—Continuance of Act.

Passed 30th April 1851.

Be it enacted, &c.—1. An Act made and passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act to provide for the better payment of Petit Jurors attending the several Courts of Record in this Province*, be and the same is hereby revived and declared to be in full force, and shall continue in operation until the first day of May which will be in the year of our Lord one thousand eight hundred and sixty.

12th VICTORIA—CHAPTER 41.

An Act to amend the Laws relating to Juries.

Section.

1. Repeal of Acts.
2. Grand and Petit Jurors, what qualification, and when may be challenged.
3. Jurors, how summoned and returned.
4. Sheriff's duty on notice to summon Jurors.
5. When Clerk of Circuits to give notice to Sheriff, &c.
6. & 7. Repealed.
8. If Clerk interested, how struck.
9. Grand and Petit Juries, for what causes, and Petit Jury how drawn in civil causes.
10. Talesmen, when ordered.
11. Defect in Juror's list, &c. no ground of challenge.
12. In what causes peremptory challenge allowed.
13. Jury of view.
14. When new Grand Jury ordered.
15. When second Petit Jury ordered.
16. In capital cases what number of Jurors to be summoned.

Section.

17. Juries, when to re-assemble after adjournment.
18. On inquest, how qualified.
19. Fines of Grand Juror.
20. Of Petit Juror.
21. Of Juror on inquest.
22. Allowance to, on inquest.
23. Costs of Special Jury, by whom paid.
24. Allowance to.
25. How Sheriff to be paid.
26. Fines, how recovered.
27. Clerk's duty thereon.
28. Sheriff's Fees.
29. When to execute writ for.
30. Fines of several Courts, by whom collected.
31. County Treasurer's duty.
32. Subsequent Courts to have the same powers.
33. Penalties for neglect of duties.
34. Exemptions from jury services.
35. Construction of terms.
36. Validity of Forms.

Schedule.

Passed 14th April 1849.

Be it enacted, &c.—1. An Act made and passed in the twenty sixth year of the Reign of His late Majesty King George the Third, intituled *An Act for regulating Juries, and declaring the qualifications of Jurors*; also an Act made and passed in the same year of the same Reign, intituled *An Act in addition to an Act, intituled "An Act for regulating Juries, and declaring the qualifications of Jurors;"* also another Act

made and passed in the forty fifth year of the same Reign, intituled *An Act in addition to an Act, intituled "An Act for regulating Juries, and declaring the qualifications of Jurors ;"* also another Act made and passed in the sixth year of the Reign of His late Majesty George the Fourth, intituled *An Act to provide for the more effectual recovery of fines imposed upon Jurors and Officers attending the Courts of Justice in this Province ;* also another Act made and passed in the sixth year of the Reign of His late Majesty William the Fourth, intituled *An Act in addition to an Act for regulating Juries, and declaring the qualifications of Jurors ;* also another Act made and passed in the seventh year of the same Reign, intituled *An Act to amend the Act for the more effectual recovery of fines imposed upon Jurors and Officers attending the Courts of Justice in this Province ;* also the thirty first Section of another Act made and passed in the same year of the same Reign, intituled *An Act for the amendment of the Law and the better advancement of Justice ;* also another Act made and passed in the fourth year of the Reign of Her present Majesty, intituled *An Act relating to the summoning and attendance of Petit Jurors at the respective Sittings and Circuit Courts in this Province ;* also the third Section of another Act made and passed in the same year of the same Reign, intituled *An Act in addition to the Acts relating to Circuit Courts ;* also another Act made and passed in the eleventh year of the same Reign, intituled *An Act in addition to the Law relating to Juries ;* be and the same are hereby repealed, except so far as the said Acts or any of them may repeal the whole or any part of any other Acts not hereby repealed, and except also that for all acts done or liabilities incurred under and by the authority of the said Acts, or any of them, hereby repealed, proceedings may still be had or continued, if already commenced under and by authority of the said Acts, or any of them, as if the said Acts had not been repealed.

SUMMONING AND SELECTING JURIES BEFORE TRIAL.

2. No person shall be qualified to serve as a Grand Juror unless such person shall be possessed of a freehold in the County where he resides of the clear yearly value of ten pounds, or of personal estate of the value of one hundred pounds ; and that no person shall be qualified to serve as a

Petit Juror unless he hath a freehold estate of the value of twenty shillings a year, or is possessed of real or personal estate of the value of fifty pounds ; and if any of a lesser estate be returned it shall be good cause of challenge, and the party returned shall be discharged upon said challenge, or upon his own oath.

3. No Sheriff or other officer shall return any person to have been summoned (A) unless such person shall have been duly summoned six days before the day of appearance ; and in case any Juror be absent from his habitation, a summons shall be given by leaving a note (A) in writing under the hand of such officer, at the dwelling house of such Juror with some person there inhabiting.

4. It shall be the duty of the Sheriff of each County, upon notice to be given him of the time and place appointed for the holding of any of the Courts hereinafter specified by the Clerk of the Court at which the trials are to be had, and without any notice where the time is fixed by law for holding any of the said Courts, and also without any venire, distringas, precept, or other process whatever, duly to summon (A) from the body of the County generally, twenty four men qualified as by law required, to serve as Grand Jurors, and twenty four other men also qualified as aforesaid, to serve as Petit Jurors, to attend at and for the Courts of Nisi Prius, Sittings after Term, Oyer and Terminer, and General Gaol Delivery, or for any of the said Courts where they may be held together or separately, and also at and for the General Sessions of the Peace and Inferior Courts of Common Pleas in each County, at the time and place hereinbefore mentioned for holding such Courts respectively, provided that nothing herein shall be construed to prevent any distringas or other Jury process being issued for the summoning of any Jury in any case where by law the Sheriff cannot act, or not otherwise provided for by this Act.

5. It shall be the duty of the Clerk of the Circuits on receiving any Commission of Oyer and Terminer and General Gaol Delivery, to give notice (B) to the Sheriff of the County where the said trials are to be had, of the time and place appointed for holding the said Courts respectively, requiring him to summon twenty four men qualified by law to serve as Grand Jurors at such Court, and twenty four other men qualified in like

manner to serve as Petit Jurors at the said Court; and the said Clerks and Sheriffs respectively shall be liable to the penalties for any disobedience of the provisions of this Act as hereinafter provided; provided always, that where such Court of Oyer and Terminer and General Gaol Delivery is appointed to be held at the same time and for the same County as the Court of Nisi Prius, (the time for holding which is fixed by law) the Sheriff shall not be required to summon more than one Petit Jury in the first instance, which shall serve for both Courts.

6 and 7. Repealed by 13th Vic. cap. 43, sec. 4.

8. If it shall be made to appear to the said Court that the said Clerk is interested in the cause, related to either of the parties, or not indifferent between them, the said Court shall nominate and appoint two fit and proper persons to strike said Jury, who shall have the same powers and shall conduct the striking of the said Jury in the same manner as herein pointed out for the said Clerk.

CHALLENGES AND OTHER MATTERS ON TRIAL.

9. The Grand and Petit Juries respectively so returned, shall be the Juries for hearing and determining all causes, criminal and civil, to be heard or tried at the said Courts, or any of them, during the several sittings thereof, pursuant to the respective jurisdiction and authority given to such Juries by law; and in all causes other than criminal causes, the name of each Petit Juror summoned, empanelled, and returned as hereinbefore mentioned, in either of the said Courts, shall be written on distinct pieces of paper of equal size, as near as may be, and shall be delivered to the Clerk of such Courts respectively, to be rolled up and put into a box; and when a case is brought on to be tried, the said Clerk or some indifferent person shall, in open Court, draw out twelve of the papers; and if any of the persons drawn shall not appear, or be challenged, or set aside, then a further number, till twelve be drawn who shall appear; and the said twelve persons so drawn and approved, their names being marked in the panel, and being sworn, shall be the Jury to try the cause; and the names of the persons sworn shall be kept apart in some other box till the Jury have given in their verdict, and the same is recorded, or till the Jury be discharged; and then

the same names shall be rolled up again and returned to the former box, and so *toties quoties*; and if a cause shall be brought on to be tried before the Jury in any other cause shall have brought in their verdict, or be discharged, the Court may order twelve of the residue to be drawn as before for trial of the cause.

10. In all causes criminal or civil, where the Jury is like to remain untaken for default of Jurors, the Justices shall have authority to command the Sheriff or other officer of the Court to name so many other persons of the County qualified by law then present as shall make up a full Jury, the names of which persons shall be added to the former panel.

11. The neglect of any Sheriff to make out and return such list of Jurors pursuant to the directions of this Act, or of the Clerk of the Peace to enter such list in a book, or the omission or insertion of the name of any person in such list who may be qualified or not qualified to serve as a Juror, or any error in the description of such Juror, or any other defect in the same, or the empanelling or returning of any person or persons not named and mentioned in such list, shall not be deemed or allowed as any ground of excuse or objection to any person (otherwise qualified) being summoned, sworn, or serving as a Grand Juror or a Petit Juror for the trial of any issue joined in any Court of Record in this Province, or of any ground of challenge either to the array or to the poll of the Grand or Petit Jurors.

12. And whereas it is considered desirable to allow either party to challenge peremptorily a limited number of Jurors without assigning any cause;—When any Jury, other than a special Jury, may be empanelled for the trial of any issue joined, or any inquisition to be taken in any action or prosecution in any Court of Record in this Province, except in cases where by law a peremptory challenge is now allowed, the party plaintiff, prosecutor, defendant, or prisoner, may, as the Jurors come to the book to be sworn, peremptorily challenge not exceeding three of the Jurors, which challenge shall be allowed by the Court, or Judge, or officer presiding, before whom such issue or inquisition may be tried or taken; provided that this Act shall not be construed to authorize either party to challenge peremptorily more than three Jurors, notwithstanding such

party may consist of several persons ; and provided also, that nothing herein contained shall be construed to impair or abridge the right to any challenge for cause as heretofore practised.

13. Where a view shall be allowed, six of the Jurors or more (who shall be consented to on both sides, or if they cannot agree, shall be named by the proper officer of the Court, or if need be, by a Judge, or by the Judge before whom the cause shall be brought to be tried) shall have the view, and shall be first sworn, or such of them as appear on the Jury before any drawing ; and so many only shall be drawn to be added to the viewers as shall make up the number of twelve.

14. And whereas it may sometimes happen that objection may be taken to the array of the Grand Jury returned by the Sheriff or other officer at the Courts of Oyer and Terminer and General Gaol Delivery for any County, and in consequence thereof, such Grand Jury may be discharged ;—Whenever at any such Court of Oyer and Terminer or General Gaol Delivery, or Sittings after Term, any Grand Jury returned by any Sheriff or other officer, shall be discharged by the Court in consequence of some legal objection being taken to such Jury, or for any other cause satisfactory to the Court, such Court may order a new Grand Jury of twenty four men to be summoned ; and the Clerk of the Circuits shall give notice (B) to the Sheriff for the summoning of such Jury ; and it shall be the duty of the Sheriff to summon such Jury within such time as the said Court shall order, and as in the said notice shall be mentioned, in the like manner as in the case of summoning a second Petit Jury at and for the same Court, as hereinafter mentioned ; which said Jury shall be subject to the like fines and penalties for non-attendance, or for any misdemeanor or default at the Court to which they may be summoned, as if summoned and returned upon the first panel of Grand Jurors.

15. And whereas from the increased business in the Supreme Court, or from other causes, it may sometimes be necessary to require the attendance of a second Jury for the trial of causes at the Circuit Courts, or Sittings, or Courts of Oyer and Terminer and General Gaol Delivery ;—It shall and may be lawful, whenever the same shall appear to the Court to be necessary, and the said Court shall so order, for the Clerk of

the Circuits, or his Deputy, to give notice to the Sheriff of the County where such Court may be holden, requiring such Sheriff to summon twenty four men, duly qualified as by law required, to appear and serve as Jurors for the trial of causes, both civil and criminal, at such Circuit Court, or Sittings, or Court of Oyer and Terminer and General Gaol Delivery, as the case may be, on a day to be named in such notice, which day shall in no case be earlier than the sixth day after the day appointed for the opening and commencement of such Courts respectively; and it shall be the duty of the Sheriff to cause such persons to be duly summoned in like manner as the first Jury, and shall return a panel of such Jurors to the Court on the day named in the notice; and such Jurors, being duly summoned according to this Act, shall give their attendance, and shall be charged and bound in such and the like manner, and upon the like pains and penalties for non-appearance and non-attendance, or for any misdemeanor or default, at the Court to which they may be summoned, as if summoned and returned upon the first panel of Jurors for the trial of causes at such Courts respectively.

16. And whereas it may occasionally be necessary for the trial of any person or persons indicted for any capital felony, that more than the ordinary number of Jurors should be summoned;—It shall and may be lawful, whenever the same shall appear to be necessary, for any Judge of the Supreme Court, or Commissioner who may preside at any Court of Oyer and Terminer and General Gaol Delivery, or Sittings after Term, holden as aforesaid, at which any indictment may be preferred, or shall come on to be tried against any person or persons, for any felony or crime for which the punishment of death is awarded, to direct the Clerk of the Circuits to give notice (B) to the Sheriff of the County in which such Court may be holden, to summon such number of men, qualified as by law required, as by the same Court may be ordered and in the said notice shall be mentioned, to appear and serve as Jurors for the trial of the person or persons so indicted as aforesaid, on a day to be named in the same notice, which day shall in no case be earlier than the third day, inclusive, after the day on which such notice shall be delivered to such Sheriff; and it shall be the duty of such Sheriff to cause such persons to be personally

summoned in the same manner as other Jurors, and shall return a panel of such Jurors to the Court on the day named in the notice, and such Jurors, so summoned, shall give their attendance accordingly; and the names of such Jurors so summoned, empanelled, and returned, shall be called from the said panel when the indictment is to be tried; and if any of the persons so called as Jurors shall not appear, or shall be challenged, excused, or set aside, then a further number shall be called, until twelve shall be allowed and sworn, who shall be the Jury for the said trial; provided always, that in case a sufficient number of Jurors named in such panel shall not appear or be allowed, a tales may be awarded to complete the Jury, as is now by law directed; and provided also, that no Juror shall be fined for non-attendance, according to the exigency of such notice, unless proof be duly made by affidavit, or viva voce in open Court, by the summoning officer, that he was personally summoned at least forty eight hours before the time appointed for his appearance.

17. The Grand Jury and Pétit Jury in attendance on any Court of Nisi Prius, Sittings after Term, or Court of Oyer and Terminer and General Gaol Delivery, shall re-assemble and attend at any adjournment of such Courts respectively made, pursuant to an Act made and passed in the fourth year of the Reign of Her present Majesty, intituled *An Act in addition to the Act relating to the Circuit Courts*, if thereto required by the presiding Judge at the time of such adjournment, and shall be liable to the like pains and penalties for non-appearance and non-attendance, and for any misdemeanor or default, as such jurors are by law liable to in any Circuit Court or Court of Oyer and Terminer and General Gaol Delivery.

JURIES ON INQUESTS.

18. No person shall be liable to be summoned or empanelled to serve as a juror in any County in this Province, upon any inquest or inquiry to be taken or made by or before any Sheriff or Coroner in any civil suit, by virtue of any writ of inquiry issuing out of any of the Courts of this Province, or by virtue of any other legal authority or power whatsoever, who shall not be duly qualified to serve as a juror upon any trial in any Court of Law within this Province.

FINES AND EXPENSES OF JURORS, AND SUMMONING.

19. Every person summoned as hereinbefore mentioned, to serve as a Grand Juror, and who shall not appear after being openly called three times, upon oath made by the summoning officer that such person so making default had been lawfully summoned, shall forfeit and pay for every such default such fine, (not exceeding the sum of three pounds nor less than twenty shillings) as the Judge presiding in said Court shall think reasonable to inflict or assess, unless some sufficient cause of his absence be proved by oath, affidavit, or affirmation, to the satisfaction of the said Judge.

20. And whereas much delay and obstruction have occurred in the administration of justice for the default of Jurors in attendance on some of the Circuit Courts in this Province;— Every person who may be duly summoned to attend as a Petit Juror at any Court of Oyer and Terminer or Goal Delivery, or Court of Nisi Prius, or Sittings after Term, and who shall not appear when called, upon the trial of any criminal or civil cause in any such Court, shall, on due proof being made by oath or affidavit of the summoning officer that such person hath been lawfully summoned, forfeit and pay for the first default any sum not exceeding ten shillings, and for every subsequent default any sum not exceeding five shillings, as the presiding Judge at such Court shall think reasonable to inflict or assess, unless some sufficient cause of his absence be assigned and proved to the satisfaction of such Judge; provided always, that the amount of said fines to be levied on each jurymen for the several defaults at any one Court, shall not exceed the sum of five pounds; such fines so inflicted as aforesaid to be levied and collected as hereinafter provided.

21. If any person or persons having been duly summoned to serve on a jury in any County in this Province upon any inquest or inquiry before any Sheriff as aforesaid, or Coroner, shall not, after being openly called three times, appear and serve on such jury, every such Sheriff, or in his absence, the Under-Sheriff, and every such Coroner, is hereby authorized and empowered (unless some reasonable excuse shall be proved on oath or affidavit) to impose such fine upon every person so making default, as they shall respectively think fit, not exceeding ten shillings; and every such Sheriff, Under-Sheriff, and

Coroner respectively, shall immediately after taking such inquisition, make out and sign a certificate, containing the christian and surname, the residence, and trade or calling of every person so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Court out of which the writ of inquiry in such case shall have issued, within thirty days after imposing such fine; and every such Clerk is hereby required, within such time as aforesaid, to enter the fines so certified on a roll or schedule, in the same manner as all other fines imposed by such Courts respectively on jurors are entered; and the same shall be levied and applied as hereinafter mentioned.

22. No person who shall, after the passing of this Act, serve on any such jury, in any County of this Province, upon any inquest or inquiry before any Sheriff or Coroner, shall be allowed to take, for serving on such jury, more than the sum of money which such Sheriff, or in his absence, the Under-Sheriff, or such Coroner, shall think just and reasonable, not exceeding the sum of two shillings and six pence.

23. In all cases the party who shall apply for a special jury shall not only pay the fees for striking such jury, but shall also pay all the expenses occasioned by the trial of the cause by such special jury, and shall not have any other allowance for the same, upon taxation of costs, than such as he would be entitled unto in case the cause had been tried by a common jury, unless the Judge before whom the cause is tried, immediately after the trial, certify in open Court, under his hand, upon the back of the Record, that the same was a cause proper to be tried by a special jury, and such certificate may be granted as well where the plaintiff may be non-suited as in the case of a verdict against him.

24. Any person who shall serve upon any special jury, appointed or returned by authority of the said Act, shall be allowed to take, for serving on such jury, no more than the sum of money which the Judge who tries the issue or issues shall think just and reasonable, not exceeding the sum of five shillings per day, and that the Sheriff for summoning and returning such jury shall be entitled to receive a sum not exceeding thirty shillings, to be taxed at the discretion of the Judge.

25. Each Sheriff shall have and receive such sum of money for his expenses and trouble in making out and returning the list of jurors hereinbefore mentioned, as the Justices in their General Sessions shall deem to be an adequate compensation therefor, and they shall thereupon order the same to be paid by the Treasurer of the County, out of the moneys in his hands belonging to such County respectively, and such sum so to be allowed to the Sheriff shall be deemed a County charge, and shall be provided for as other County charges are or may be by law.

MODE OF RECOVERY OF FINES.

26. All fines which may by law be imposed on Grand Jurors, Petit Jurors, Constables, and other officers or ministers of the law whomsoever, for non-attendance on any Court on which by law they are bound to attend, shall and may be recovered and levied by writ of general levavi facias, issuing out of the Courts imposing such fines respectively, together with the costs of levying the same; and such fines shall, when received either by the Clerk of the Court imposing the same, or by the Sheriff or other officer by whom the same may be levied, be paid over and accounted for to the Treasurer of the County in which the Court sits, to be from time to time applied by the respective Courts which shall have imposed such fines, for the payment of expenses of witnesses, constables, attending the respective Courts imposing such fines, and other contingent charges on criminal prosecutions, and for the support of criminals in such respective Counties.

27. The Clerk of the Court by which any such fine or fines as are mentioned in the said Act shall have been set or imposed, shall, within twenty days after the adjournment of such Court, enter on a roll or list the names of the persons upon whom any fine or fines shall have been set or imposed at such Courts, and their places of residence, together with the amount of fines set or imposed upon each respectively, and shall within such time as aforesaid, prepare and deliver to the Sheriff of the County wherein such Court shall have been held, a writ of general levavi facias according to the form in the Schedule to this Act annexed, to which writ the said roll or list shall be annexed; and that it shall be the duty of the Sheriff on receipt of such writ, forthwith to levy or cause to be levied of the goods and

chattels of the several persons respectively, the fines mentioned in the said roll or list thereunto annexed, and to pay the amount of the said fines which may be so levied to the Treasurer of the County, whose receipt for the same, endorsed on such roll or list, shall be a sufficient discharge to the said Sheriff; provided always, that if before the issuing of such writ, any person or persons upon whom any such fine may be set or imposed, shall tender the amount thereof to the said Clerk, such Clerk shall, and he is hereby authorized and required to receive and pay the same to the said County Treasurer, and he shall mark the same on the roll or list as so satisfied; and that in such case the Sheriff shall not proceed to levy on such person or persons by virtue of the said writ.

28. Every Sheriff to whom any such writ of *levari facias* shall be delivered, shall be entitled to levy, recover, and receive, in addition to the fine or sum mentioned in the roll or list, the sum of five shillings from each person named in such roll or list, on whom a levy may be made; such sum of five shillings to be received and retained by such Sheriff in lieu of any poundage fees or other charges to which he would be by any law or ordinance entitled, and in full of all such charges and all other charges attending such levy, the reasonable and necessary expenses attending the sale of any goods or chattels which may be levied alone excepted.

29. It shall be the duty of the Sheriff, immediately on the receipt of such writ, to endorse thereupon the day of the month and year on which the same was so received, and within the space of three calendar months from such day, to make due return of his proceedings thereon, and to file such writ, together with the roll or writ thereunto annexed, and his return thereto, with the Clerk by whom the same may have been issued, or his successor in office, to remain on file in the office of such Clerk; and that any Sheriff failing in the performance of the duty required by this Act, shall be considered guilty of a contempt of Court, and may for such offence be proceeded against and punished as for a contempt, or shall be subject to the penalty hereinafter mentioned; and it shall be the duty of such Clerk to report to the Court any omission or failure of the duty required of such Sheriff by this Act.

30. And whereas the Clerk of the Circuits in this Province

is also Clerk of the Courts of Oyer and Terminer and General Gaol Delivery, and such Courts are usually holden in the several Counties at the same time ; and in like manner the Clerks of the General Sessions of the Peace are also Clerks of the Inferior Courts of Common Pleas of the several Counties respectively, and the Sessions are holden at the same time or terms as the said Inferior Courts, and defaults are usually committed by the same persons at both the Courts so holden at the same time, it is therefore deemed unnecessary that more than one writ of *levari facias* should be issued by the Clerks of the said Courts respectively at the same time ;—It shall and may be lawful for the Clerk of the Circuit Courts, and Courts of Oyer and Terminer and General Gaol Delivery, to include in the same roll or list as well any fines which may be set or imposed by the Circuit Court or Court of *Nisi Prius*, as the fines set or imposed by the Court of Oyer and Terminer and General Gaol Delivery holden at the same time and place, and to issue one writ of *levari facias* for the recovery of the same ; and in like manner it shall and may be lawful for the Clerks of the General Sessions of the Peace and of the Inferior Courts of Common Pleas for the several Counties respectively, to include in the same roll or list the fines imposed by the said Sessions, and those imposed by the Inferior Courts holden at the same time and place, and to issue one writ for the recovery of the same ; provided always, that nothing herein contained shall extend or be construed to authorize the imposition of any fines except by the Judge or Judges of the Courts respectively, at which the defaults or offences for which the same are imposed are committed, or to prevent the issue of several writs, should the said Courts so order and direct.

31. It shall be the duty of the Treasurers of the several Counties respectively, to whom any such fines may be paid, to keep the statements and accounts of the fines imposed by the Circuit Courts and Courts of Oyer and Terminer and General Gaol Delivery, distinct and separate from those imposed by the General Sessions and Inferior Courts of Common Pleas ; and in like manner it shall be the duty of the Treasurer for the County of York to keep the statement of the fines imposed by the Supreme Court, or any of the Judges thereof, at any sittings for the County, distinct and separate

from those imposed by the Sessions and Inferior Courts of Common Pleas of the said County; and it shall further be the duty of the said County Treasurers respectively to prepare and exhibit a true and correct statement and account, verified by the oath of the said Treasurer, as well of the amount received by him for fines as the sums paid therefrom by order of the Court imposing the same, and that such account shall be delivered on the first day of the sitting of the several Courts respectively, and remain on the files of such Court; and for the services to be performed by such County Treasurers, they shall be allowed to charge and retain two and one half per cent., or six pence in the pound, on the amount so received for such fines, and that any County Treasurer failing in the performance of the duty required of him by this Act, shall be considered guilty of a contempt of Court, and may for such offence be proceeded against and punished as for contempt.

32. The several successive Circuit Courts and Courts of Oyer and Terminer and General Gaol Delivery sitting in and for the same County, shall, for the purposes of this Act, be vested with the like power and authority, with regard to any fines set or imposed, or orders made for the levying, receiving, paying, accounting for, and appropriation thereof, at any previous Circuit Court and Court of Oyer and Terminer and General Gaol Delivery, as if such fines were set or imposed, or orders made at the same Courts, although the said Courts may sit by virtue of several commissions or appointments issued or made at different times.

33. If any Clerk of any Court, or any Sheriff of any County, shall neglect or refuse to perform the duties or any of them required of them respectively by this Act, they or either of them so neglecting or refusing shall forfeit and pay the sum of twenty pounds for every such neglect or refusal, to be recovered by any person or persons who will sue for the same, together with full costs of suit, by action of debt or on the case, in any Court of Record; one half to be for the use of the person who shall sue for the same, and the other half to be paid to the County Treasurer, for defraying the expenses of criminal prosecutions and other contingent expenses of the County and of the respective Courts, which recovery shall be over and above any civil remedy to which any party grieved may be entitled.

EXEMPTIONS.

34. The Members of Her Majesty's Executive and Legislative Councils, the Members of the Assembly, Judges of the Supreme and Inferior Courts of Record, the Treasurer of the Province, Deputy Treasurers, Registers of Deeds, Surveyor General of Crown Lands, Secretary of the Province, Clerks of the Council and of the Assembly, Officers of Her Majesty's Customs, and Revenue and Naval Officers, Clergymen and Ministers of the Gospel, Attorneys at Law, Officers of Her Majesty's Courts, Justices of the Peace, Physicians and Surgeons duly qualified by law to practise as such, and licenced Teachers of Schools, shall be excused from serving as Jurors.

CONSTRUCTION OF TERMS.

35. Whenever in this Act words have been or shall be used importing one matter, the singular number, or masculine gender, or the County only, this Act shall be understood to include several matters as well as one matter, several persons as well as one person, females as well as males, and City and County as well as County, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

36. The several forms in the Schedule to this Act contained, or forms to the like effect, shall be deemed good, valid, and sufficient in law.

SCHEDULE.

(A)

Form of Summons to Jurors.

To Mr. A. B.

You are hereby required to attend as a (Grand or Petit Juror, *as the case may be,*) at the Court of (Nisi Prius, or Sit-tings, or Oyer and Terminer and General Gaol Delivery, or Inferior Court of Common Pleas and General Sessions of the Peace, or more than one of them, *as the case may be,*) to be holden in and for the County of _____ at the Court House in _____ in the same County, on _____ the _____ day of _____ next (*or instant*); and in case of default you will be liable to be fined, pursuant to the Act of Assembly made and passed in the twelfth year of the Reign of Queen Victoria, intituled *An Act to consolidate and amend the Laws relating to Juries.*—

Dated the _____ day of _____ A. D. 184 .

(Signed)

Sheriff. (L.S.)

(B)

Form of Notice to Sheriff.

To Esquire, High Sheriff, (or other Officer, as the case may be.)

You are hereby required to summon, according to law, twenty four men for Grand Jurors, and twenty four other men for Petit Jurors, (or either one or the other, as the case may be,) to give their attendance at the Courts of Oyer and Terminer and General Gaol Delivery, to be holden in and for the County of at the Court House in for said County, on the day of next (or instant); and you will, in summoning such Jurors, give particular attention to the requisitions and penalties of an Act of Assembly made and passed in the twelfth year of the Reign of Her Majesty Queen Victoria, intituled *An Act to consolidate and amend the Laws relating to Juries.*—Dated the day of A. D. 184

(Signed)

(L.S.)

Clerk (or Deputy Clerk) of the Circuits.

(C)

Levari Facias.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith.

To the Sheriff of Greeting :

We command you, that of the respective goods and chattels of all and singular the persons mentioned in the Roll or List hereunto annexed, you do, without delay, levy or cause to be levied all and singular the fines and sums of money upon them respectively imposed and set, and in the said Roll or List mentioned, together with the sum of five shillings from each of them for your service and expense in the execution of this Writ, and that you do forthwith pay to the Treasurer of the said County the fines so levied, and make return hereof as by law directed.—Witness Esquire, at in the said County, the day of in the year of our Reign.

A. B. Clerk.

[To be signed by the Clerk or his Deputy, and tested in the name of the presiding Judge or Justice, on the last day of the Term or Sitting of the Court.]

13th VICTORIA—CHAPTER 43.

An Act to amend the Laws relating to Juries.

Section.

1. Common Plea Courts, fines for default of Jurors.
2. Sheriff, when to make annual returns, &c.

Section.

3. Special Jury, how struck.
4. Repeal of Sections.
5. Petit Jurors for Circuits, how increased.

Passed 26th April 1850.

Be it enacted, &c.—1. Every person who may be duly summoned to attend as a Petit Juror at any Court of General Sessions of the Peace or Inferior Court of Common Pleas in and for any County or City in this Province, and who shall not appear when called upon the trial of any criminal or civil cause in any such Court, shall on due proof being made by oath or affidavit of the summoning officer that such person hath been lawfully summoned, forfeit and pay for every such default the sum of five shillings, unless some sufficient cause of his absence be assigned and produced to the satisfaction of such Court; provided always, that the amount of such fines to be levied on each such juryman for the several defaults at any one term shall not exceed the sum of three pounds; such fines so imposed as aforesaid to be levied and collected in the same manner as is directed and provided in respect of fines on Jurors in and by an Act passed in the twelfth year of the Reign of Her present Majesty, intituled *An Act to amend the Laws relating to Juries*.

2. The Sheriff of each County and City and County, shall between the first day of January and the fourteenth day of February in each year, make out a list and cause the same to be fairly entered in a book to be by him provided for that purpose, of all persons qualified to serve upon Juries, who have resided within the said County, or City and County, for three months preceding, with their titles and additions, between the age of twenty one years and the age of sixty years, and shall return the same book into the office of the Clerk of the Peace of the said County, or City and County, to be by him kept among the Records of the Sessions of the said County, or City and County, and it shall not be necessary for the said Clerk to have the said list entered in any other book; and no Sheriff shall empanel or return any person or persons to try any issue joined in any Court of Record in this Province that shall not be named and mentioned in such list.

3. Upon any motion made in the Supreme Court on behalf of Her Majesty, or on motion of any prosecutor or defendant

on an indictment or information for any misdemeanor or information in the nature of a quo warranto, or on motion of any plaintiff or defendant in any cause depending in the said Courts, the Justices are required to order a special Jury to be struck before the Clerk of the Peace of the County, or City and County in which the venire is laid, and the party obtaining such order shall get an appointment from the said Clerk of the time and place of the selection of forty eight persons from the Jury list entered in his office, and shall serve a copy of said order and appointment on the opposite party or his Attorney, at which time and place the said Clerk or his deputy shall attend with the said Jury list, and shall then and there in the presence of the parties, or their Counsel or Attorneys, or such of them as shall attend, select from the said Jury list the names of forty eight persons whom he shall deem most indifferent between the parties, and best qualified to try such cause, and whose attendance is likely to be procured, and if no such list shall be entered for the current year, the selection shall be made from the list of the preceding year; and the said Clerk or his deputy shall thereupon make out a list of the names of the said forty eight persons so selected, and shall certify the same to be the list from which such special Jury shall be struck, and shall deliver the same to the party who obtained the order for such special Jury, his Attorney or agent, and such party shall thereupon get an appointment from the said Clerk of the time and place for striking the said Jury, and shall serve a copy thereof, together with a copy of the said list of forty eight names, on the opposite party or his Attorney, at which time and place the said Clerk of the Peace or his deputy shall attend, and shall then and there in the presence of the parties, or their Counsel or Attorneys, or such of them as shall be present, proceed to strike a Jury in the manner following:—First, the party on whose application such special Jury was ordered, or his Attorney or agent, shall first strike out one of the said names, and the opposite party, or his Attorney or agent, shall strike out another of such names, and so alternately until each party shall have struck out twelve names: Second, if either party shall fail to attend for striking such Jury, or shall neglect to strike out any names according to the foregoing provisions, the Clerk or his deputy shall strike for such party: Third, the Clerk or his deputy shall thereupon make out a list of the

names of twenty four persons not struck out, and shall certify the same to be the persons drawn to serve as Jurors pursuant to the order of the Court, and shall deliver such list so certified to the Sheriff of the County, or City and County, Coroner, or returning officer, as the case may require, who shall proceed to summon the said Jurors pursuant to the directions of the said recited Act, without any writ of distringas or other process whatever.

4. The sixth and seventh Sections of the said recited Act be and the same are hereby repealed.

5. The number of persons to serve as Petit Jurors to attend at and for the Courts of Nisi Prius, Sittings after Term, Oyer and Terminer and General Gaol Delivery, shall in future be thirty instead of twenty four, as provided in and by the fourth, fifth, and fifteenth Sections of the said recited Act.

14th VICTORIA—CHAPTER 25.

An Act relating to Grand Juries in this Province.

Section 1.—Foreman of Grand Jury, how appointed.

Passed 30th April 1851.

WHEREAS it is deemed advisable to vest the nomination of the Foreman of Grand Juries in the members of the Grand Jury ;—

Be it enacted, &c.—1. From and after the passing of this Act, upon the meeting of any Grand Jury summoned to attend any Court in this Province, and upon their being called over in open Court, under the direction of the presiding Justice, the said members of the said Grand Jury shall retire to their jury room, under the charge of the Sheriff or his Deputy, and shall then and there by a majority of votes of those present, nominate one of their number to be their Foreman ; and upon such nomination the said Sheriff or his Deputy shall declare in open Court the name of the person so nominated, who shall thereupon be appointed by the Court to be the Foreman of such Jury, and shall be duly sworn as such ; provided always, that in case of an equal division of the Jury upon such nomination, the Sheriff or his Deputy shall have a casting vote ; and in case no such nomination shall be made and declared as aforesaid within one hour from the time of the opening of the Court, the foreman shall be appointed by the Court as heretofore accustomed.

REVIVED ACT.

5th WILLIAM 4th—CHAPTER 43.

An Act to regulate the inspection of Dry and Pickled Fish for home consumption and for exportation.

Section.

1. Tierces, &c., for packing, what to be made of, and what to contain.
2. Inspectors how appointed, &c.; Penalty for acting without qualification.
3. Duties of Inspector; Penalty for selling, &c., when; Proviso.
4. Fish, when may be sold without inspection here.
5. Penalty for shipping, &c. uninspected Fish.
6. Inspectors' Fees.
7. Penalty for branding what casks, &c., and for Inspector neglecting duty, &c.

Section.

8. When Inspectors may employ assistants, and how to be paid.
9. Justices when to issue warrants for breach of Act, &c.
10. Penalty for selling before inspection, &c.
11. Penalty how recovered, &c.
12. What persons exempt from provisions of Act.
13. Re-inspection when may be, and proceedings thereon.
14. When Inspector liable to damages.
15. Dry codfish of what qualities; Inspector's fee.
16. Limitation.

Passed 17th March 1835.

Be it enacted, &c.—1. From and after the passing of this Act, all tierces, barrels, and half barrels, in which pickled fish are packed for sale, either for exportation or home consumption, shall be made of sound well seasoned timber, free from sap, and constructed of staves of the thickness of not less than half an inch in the thinnest part if made of hard wood, and five eighths of an inch if made of soft wood, with heading well seasoned and planed, or shaved, and free from sap, and to be in all cases of split or rift wood; the casks to be fully bound or closely hooped for nine inches from the chimbs on the barrels, and in the same proportion on tierces and half barrels, the barrel staves to be twenty eight inches in length, and the heads to be seventeen inches between the chimbs, and to contain not less than twenty eight nor over twenty nine gallons; the half barrels to contain not less than fourteen gallons; and the tierces to contain not less than forty two nor more than forty four gallons.

2. It shall and may be lawful for the Justices of the Peace in each County, at their first General Sessions annually, or the Mayor, Aldermen, and Commonalty of the City of Saint John for the said City and County, to appoint fit and proper persons to be Inspectors of fish in each County, Town, and

place where such may be necessary ; and such persons before they enter upon the duties of their office, shall respectively give bonds with two sufficient sureties to His Majesty, His Heirs and Successors, in such sum not less than fifty pounds nor over one hundred pounds as the said Justices in the several Counties in this Province, and the said Mayor, Aldermen, and Commonalty of the City of Saint John, may direct; which Inspectors shall be sworn to the faithful discharge of their duty; and such persons shall continue in such office until other fit and proper persons are appointed and sworn in their stead; and each Inspector shall and is hereby required to furnish himself with a copy of this Act, which he shall, when required, produce to any person or persons who shall employ him to inspect fish under this Act; and any person acting as an Inspector of fish without being first duly appointed and qualified as aforesaid, shall forfeit and pay a sum not less than ten pounds nor more than fifty pounds, to be recovered as is hereinafter provided.

3. It shall be the duty of the said several Inspectors to see that salmon, mackerel, shad, alewives, herrings, and all other kinds of pickled fish to be packed for home consumption or exportation, have been well struck with salt and pickle, and preserved sweet, free from rust, taint, or damage; and such fish as are in good order and of a good quality shall be packed in good and sufficient tierces, barrels or half barrels; the tierces shall contain not less than three hundred pounds, the barrels not less than two hundred pounds, and the half barrels not less than one hundred pounds of fish each, and the same shall be packed with good and clean salt, suitable for the purpose; and the said casks after being closely packed full and headed up with the fish and sufficient salt, not less than in the proportion of one peck and a half of coarse salt to the barrel, or fine salt in proportion to preserve the same, shall be filled with clean strong pickle, and shall be branded on the head "Salmon," "Mackerel," "Shad," "Alewives," "Herrings," or as the case may be; those of the best quality, most approved and free from damage, shall be branded "No. 1;" those of a second quality, after the best have been selected, being sweet and free from taint, rust, or damage, shall be branded "No. 2;" and there shall be a third quality of salmon and mackerel, which

shall consist of the poorest and thinnest of those fish, that are sweet, wholesome, and free from rust, that shall be branded "No. 3:" provided always, that no small herrings, commonly called sprats or frys, shall be deemed merchantable; and the said Inspectors shall brand in plain and legible letters on the bilge of each and every such cask, across the staves, the initials of his christian name and his surname at length, with the letters "INSP." for Inspector; and on the head of each and every such cask, and in like manner, the same marks, and also the month and year in which they were inspected, and "N. B." for New Brunswick; the brands on the heads to occupy three lines thus, or as the case may be:—

A. B. Insp.

N. B. Sept. 1835.

Mackerel No. 1.

Each cask shall be filled with fish of one and the same kind and quality, and if any person shall intermix, take out, or shift any inspected fish which have been packed and branded as aforesaid, or put in other fish contrary to the true intent and meaning of this Act, he or they shall forfeit and pay the sum of ten pounds for each and every tierce, barrel, or half barrel so altered; and if any person shall sell or export, or cause to be sold or exported within or from this Province, as good or merchantable, any tainted or damaged fish, he shall forfeit and pay a sum not less than five shillings nor more than twenty shillings for every hundred pounds weight of such fish thus sold or exported; provided always, that it shall and may be lawful to export herrings without pickle, if the same are in every other respect conformable to this Act.

4. All pickled fish that may hereafter be imported into this Province, which shall appear to have been inspected at Halifax, Nova Scotia, and are branded according to the laws of that Province, may be sold in this Province or exported therefrom without any other inspection, unless the purchaser or purchasers of such fish shall think proper to have the same again inspected, in which case it shall and may be lawful for the buyer, and the seller if he shall think fit, to call an Inspector on behalf of each to re-inspect such fish; and on such re-inspection, such Inspectors shall be governed by the provisions of this Act; which Inspectors shall be paid by the persons who shall respectively employ them.

5. If the master of any vessel, or any other person or persons shall put or receive on board any vessel, or other carriage or conveyance, to transport the same from this Province, any pickled fish packed in casks which are not inspected and branded in manner by this Act prescribed, he or they on conviction shall forfeit and pay a sum not exceeding twenty shillings nor less than five shillings for each hundred pounds of such uninspected fish.

6. The said Inspectors shall respectively be paid for inspecting, culling, and branding each and every cask of fish as directed by this Act, at and after the following rates, viz :—For each barrel, when the quantity inspected for any individual at any one time does not exceed one hundred barrels, the sum of six pence per barrel, and when the quantity inspected for any individual at any one time shall exceed one hundred barrels, five pence per barrel, and for tierces and half barrels in the like proportion; the said charge for inspecting, culling, and branding to be paid by the person or persons who shall employ such Inspector; and where any such Inspector shall be required to travel any distance, exceeding two miles from his usual place of residence for the purpose of inspecting any fish, he shall be entitled to receive, in addition to the charge for inspection, six pence per mile for every mile he shall so travel, exceeding the said two miles; the same to be paid by the person employing such Inspector.

7. If any Inspector shall brand any insufficient or defective cask, or any cask the contents of which he has not inspected and culled according to the true intent and meaning of this Act, or if he shall permit any other person or persons to use his brand or brands in violation or evasion thereof, such Inspector and the person or persons so offending shall each severally forfeit and pay for every cask so branded, not less than five shillings nor more than twenty shillings, and such Inspector shall further be liable to be removed from office; and if any Inspector when called upon to perform the duties of his office shall neglect or refuse so to do, without good and sufficient reason, he shall forfeit and pay for each and every offence the sum of ten shillings, and further be liable to be removed from office.

8. In all cases where the person or persons employing any

Inspector shall neglect or refuse to furnish such assistance as may be necessary to enable the said Inspector to weigh and pack at least twenty barrels of fish per day, it shall and may be lawful for the said Inspector to employ such persons as he may require to weigh and pack such fish, for which he shall be entitled to receive from the person or persons who shall employ him, over and above the charge for inspection, the sum of five pence per barrel for any quantity under one hundred barrels, and where the quantity shall exceed one hundred barrels, four pence per barrel.

9. If any pickled fish as aforesaid shall be put on board any boat, vessel, or carriage of conveyance, with intent to sell or export the same contrary to the provisions of this Act, it shall be lawful for any such Justice of the Peace in the same County, or City and County, upon information given him, to issue his warrant to the Sheriff or his Deputy, or to any Constable of the Town or Parish in which such boat, vessel, or carriage of conveyance may be, requiring them respectively to detain such boat, vessel, or carriage of conveyance, as long as may be necessary, and to seize and secure said fish, and carry the same to one of the nearest Inspectors; and such Inspector is hereby required to open and inspect, and to cull, pack, and brand the same as is before provided by this Act, and to detain the same until the expense and charges of seizure, inspection, packing, and all other charges arising from such seizure shall be paid; and further the owner or person claiming such fish shall be liable to and forfeit the sum of five shillings for every cask of fish so seized; and it shall be the duty of every person, when required, to give his necessary aid to the person having such warrant as aforesaid, on pain of forfeiting twenty shillings for his refusal.

10. If any person or persons shall sell or offer for sale any pickled fish before being inspected, or contrary to the provisions of this Act, he or they shall upon conviction forfeit and pay for every hundred pounds of fish so sold or offered for sale, the sum of five shillings; provided always, that no person shall be liable as aforesaid unless information is given, and a prosecution commenced within thirty days from the date of the offence.

11. All penalties and forfeitures imposed and arising by

virtue of this Act, when the same shall not exceed the sum of five pounds, shall be recovered before any Justice of the Peace, or where the same shall be more than five pounds and shall not exceed fifteen pounds, before any two of His Majesty's Justices of the Peace, together with the costs of prosecution, on the oath of one or more credible witness or witnesses, and to be levied by warrant of distress under the hand and seal of such Justice or Justices, and sale of the offender's goods and chattels, and for want of sufficient distress, such offender shall suffer not less than five days nor more than twenty days imprisonment; and in case such fine shall exceed fifteen pounds, the same may be recovered in any of His Majesty's Courts of Record in this Province, by action of debt, together with costs of suit; one half of all such penalties and forfeitures to be paid to the person or persons who shall sue for the same, and the other half to be paid to the Overseers of the Poor of the Town or Parish where such offence shall be committed, for the benefit of the poor of such Town or Parish.

12. Provided always, that nothing in this Act shall be construed so as to prevent any pickled fish from being sold at any of the ports of this Province by the fishermen as they may bring them to market in bulk, and that nothing in this Act shall extend to fish packed in kegs or other packages of less than ten gallons.

13. If the owner of any pickled fish inspected as aforesaid, or buyer, or seller of any such fish, shall be dissatisfied with any such inspection; it shall and may be lawful for the said owner to call two other Inspectors, or the said buyer and seller to call one other Inspector each to re-inspect such fish, and in case the said two Inspectors cannot agree, then they shall be at liberty to call in a third Inspector, and the determination of the said Inspectors, or any two of them, shall be final and conclusive; and in case the first inspection shall be confirmed, each of the said Inspectors shall be paid by the persons who shall respectively employ them; and in case the first inspection shall not be confirmed, the owner or purchaser of said fish shall be entitled to recover the expense of re-inspection from the person of whom he purchased them, or from the first Inspector thereof, at the option of the said owner or purchaser.

14. If any Inspector shall brand or mark any fish which

shall remain in this Province, and which on examination within four months after such inspection, reckoning from the last day of the month branded on the cask, shall prove to be of a quality inferior to the brand on such fish, such Inspector shall be liable to the person or persons who shall own the said fish at the time of such examination, for all such damage as he or they may have sustained by reason of the said fish proving inferior to the brand on such casks; and such person or persons shall recover from such Inspector all such damage as he or they shall have sustained thereby, where the same does not exceed five pounds, before one of His Majesty's Justices of the Peace, or if the same shall exceed the sum of five pounds and be less than fifteen pounds, then before two of His Majesty's Justices of the Peace, and in all cases where the damage shall exceed the sum of fifteen pounds, by action of debt in any Court of Record in this Province, together with costs of suit; provided always, that no Inspector shall be liable as aforesaid, unless he shall be duly notified of such claim, within six months after he shall have inspected such fish, reckoning from the last day of the month branded on the cask.

15. There shall be three qualities of dry codfish, viz: the first or best to be called "merchantable," and to consist of smooth, well split, thoroughly dried, free from break, salt-burn, and not discolored in curing or otherwise, and that no fish shall be deemed merchantable, but such as are cured in catch; the second quality to be called "Madeira," and to consist of the next best, being such as are not injured by being salt-burnt, broken, or much discolored; and the third quality to be called "West India," and consist of such as may be inferior to the above, but in all respects sound, free from slime, and wholesome; and that Inspectors duly appointed under this Act shall be allowed for their care, diligence, and trouble, two pence per quintal, payable half by the seller and half by the buyer.

16. This Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.

[Continued by 17 Victoria, Chapter 10.]

TABLE OF OBSOLETE ACTS.

5th WILLIAM 4th—CHAPTER 49.

**An Act to provide for the Custom House Establishment in the
Province of New Brunswick.**

8th VICTORIA—CHAPTER 47.

**An Act to facilitate the making of the Military Road through
this Province by Her Majesty's Government.**

8th VICTORIA—CHAPTER 102.

**An Act to facilitate the settlement of the Crown Lands on the
Military Road from Nova Scotia to the Canada Line.**

PUBLIC TREATIES.

TREATY

BETWEEN HER MAJESTY AND THE UNITED STATES OF AMERICA,

Signed at Washington, August 9th, 1842.

[Ratifications exchanged at London, October 13, 1842.]

A TREATY to settle and define the Boundaries between the Possessions of Her Britannick Majesty in North America, and the Territories of the United States ;—for the final suppression of the African Slave Trade ;—and for the giving up of Criminals, fugitive from justice, in certain cases.

WHEREAS certain portions of the Line of Boundary between the British Dominions in North America and the United States of America, described in the Second Article of the Treaty of Peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose : And whereas it is now thought to be for the interest of both parties that, avoiding further discussion of their respective rights, arising in this respect under the said Treaty, they should agree on a Conventional Line, in said portions of the said Boundary, such as may be convenient to both parties, with such equivalents and compensation as are deemed just and reasonable : And whereas, by the Treaty concluded at Ghent, on the 24th day of December, 1814, between His Britannick Majesty and the United States, an Article was agreed to and inserted, of the following tenor, viz : “ Article X. “ Whereas the Traffick in Slaves is irreconcilable with the “ principles of humanity and justice ; And whereas both His “ Majesty and the United States are desirous of continuing “ their efforts to promote its entire abolition ; it is hereby “ agreed, that both the contracting parties shall use their best “ endeavours to accomplish so desirable an object :” And whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffick is still prosecuted and carried

on ; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are determined that so far as may be in their power, it shall be effectually abolished : And whereas it is found expedient for the better administration of justice and the prevention of crime within the territories and jurisdiction of the two parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should under certain circumstances be reciprocally delivered up : Her Britannick Majesty, and the United States of America, having resolved to treat on these several subjects, have for that purpose appointed their respective Plenipotentiaries to negotiate and conclude a Treaty, that is to say : Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on Her part, appointed the Right Honorable Alexander Lord Ashburton, a Peer of the said United Kingdom, a Member of Her Majesty's Most Honorable Privy Council, and Her Majesty's Minister Plenipotentiary on a Special Mission to the United States ; and the President of the United States has, on his part, furnished with full powers, Daniel Webster, Secretary of State of the United States ; who, after a reciprocal communication of their respective full powers, have agreed to and signed the following Articles :—

ARTICLE I.

It is hereby agreed and declared, that the Line of Boundary shall be as follows :—Beginning at the monument at the source of the River Saint Croix, as designated and agreed to by the Commissioners under the Fifth Article of the Treaty of 1794, between the Governments of Great Britain and the United States ; thence north, following the exploring line run and marked by the Surveyors of the two Governments in the years 1817 and 1818, under the Fifth Article of the Treaty of Ghent, to its intersection with the River Saint John, and to the middle of the channel thereof ; thence up the middle of the main channel of the said River Saint John to the mouth of the River Saint Francis ; thence up the middle of the channel of the said River Saint Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook ; thence south-westerly, in a straight line, to a point on the northwest branch of the River Saint John, which point shall be ten miles distant

from the main branch of the Saint John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River Saint Lawrence, from those which fall into the River Saint John, then the said point shall be made to recede down the said northwest branch of the River Saint John, to a point seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of $46^{\circ} 25'$ north, intersects the southwest branch of the Saint John; thence southerly by the said branch to the source thereof in the highlands at the Metjarmette Portage; thence down along the said highlands which divide the waters which empty themselves into the River Saint Lawrence, from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence down the middle of said Stream, till the line thus run intersects the old Line of Boundary surveyed and marked by Valentine and Collins, previously to the year 1774, as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and from said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois or Saint Lawrence River.

ARTICLE II.

It is moreover agreed, that from the place where the joint Commissioners terminated their labours under the Sixth Article of the Treaty of Ghent, to wit, at a point in the Neebish channel, near Muddy Lake, the line shall run into and along the ship channel between Saint Joseph's and Saint Tammany Islands, to the division of the channel at or near the head of Saint Joseph's Island; thence turning eastwardly and northwardly around the lower end of Saint George's or Sugar Island, and following the middle of the channel which divides Saint George's from Saint Joseph's Islands; thence up the east Neebish Channel nearest to Saint George's Island, through the middle of Lake George; thence west of Jonas' Island into Saint Mary's River, to a point in the middle of that river about one mile above Saint George's or Sugar Island, so as to

appropriate and assign the said Island to the United States ; thence adopting the line traced on the maps by the Commissioners, through the River Saint Mary and Lake Superior, to a point north of Ile Royale, in said Lake, one hundred yards to the north and east of Ile Chapeau, which last mentioned Island lies near the northeastern point of Ile Royale, where the line marked by the Commissioners terminates ; and from the last mentioned point southwesterly through the middle of the sound between Ile Royale and the northwestern mainland, to the mouth of Pigeon River, and up the said river to and through the North and South Fowl Lakes to the Lakes of the height of land between Lake Superior and the Lake of the Woods ; thence along the water-communication to Lake Saisaginaga and through that lake ; thence to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermillion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams connecting the lakes here mentioned, to that point in Lac la Pluie or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most northwestern point of the Lake of the Woods ; thence along the said line to the said most northwestern point, being in latitude $49^{\circ} 23' 55''$ north, and in longitude $95^{\circ} 14' 38''$ west, from the observatory at Greenwich ; thence, according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the subjects and citizens of both Countries.

ARTICLE III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the River Saint John and its tributaries, whether living within the Province of New Brunswick, or the State of Maine, it is agreed, that where by the provisions of the present Treaty, the River Saint John is declared to be the Line of Boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either ; that all the pro-

duce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the River Saint John or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said River and its said tributaries, having their source within the State of Maine, to and from the seaport at the mouth of the said River Saint John, and to and round the Falls of the said river, either by boats, rafts, or other conveyance; that when within the Province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said Province; that in like manner the inhabitants of the Territory of the Upper Saint John, determined by this Treaty to belong to Her Britannick Majesty, shall have free access to and through the river for their produce, in those parts where the said river runs wholly through the State of Maine; provided always, that this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this Treaty, which the Governments, respectively, of New Brunswick or of Maine may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.

ARTICLE IV.

All grants of land heretofore made by either party within the limits of the territory which by this Treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this Treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this Treaty, shall in like manner be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two Contracting Parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them respectively, which has heretofore been in dispute between them.

ARTICLE V.

Whereas, in the course of the controversy respecting the disputed territory on the northeastern Boundary, some moneys have been received by the authorities of Her Britannick Majesty's Province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which monèys were to be carried to a fund called the "Disputed Territory Fund," the proceeds whereof it was agreed should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of Boundaries; it is hereby agreed that a correct account of all receipts and payments on the said fund shall be delivered to the Government of the United States within six months after the ratification of this Treaty; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States; and the Government of the United States agrees to receive for the use of, and pay over to the States of Maine and Massachusetts their respective portions of said fund; and further, to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof in 1838: the Government of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of three hundred thousand dollars, in equal moieties, on account of their assent to the Line of Boundary described in this Treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannick Majesty.

ARTICLE VI.

It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the Saint Croix and the Saint Lawrence River, which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two Commissioners shall be appointed, one by Her Britannick Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said Commissioners shall meet at Bangor, in the State of Maine, on the 1st day of May next, or as soon thereafter as

may be, and shall proceed to mark the line above described from the source of the Saint Croix to the River Saint John, and shall trace on proper maps the dividing line along said River, and along the River Saint Francis to the outlet of the Lake Pohenagamook; and from the outlet of the said Lake they shall ascertain, fix, and mark by proper and durable monuments on the land, the line described in the First Article of this Treaty; and the said Commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such Line or Boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new Boundary.

ARTICLE VII.

It is further agreed, that the channels in the River Saint Lawrence on both sides of the Long Salt Islands and of Barnhart Island, the channels in the River Detroit, on both sides of the Island Bois Blanc, and between that Island and both the Canadian and American shores, and all the several channels and passages between the various Islands lying near the junction of the River Saint Clair with the Lake of that name, shall be equally free and open to the ships, vessels, and boats of both Parties.

ARTICLE VIII.

The Parties mutually stipulate, that each shall prepare, equip, and maintain in service on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the Slave Trade; the said squadrons to be independent of each other, but the two Governments stipulating nevertheless to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this Article; copies of all such orders to be communicated by each Government to the other respectively.

ARTICLE IX.

Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facili-

ties for carrying on that traffick, and avoiding the vigilance of cruizers, by the fraudulent use of flags and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes;—the parties to this Treaty agree; that they will unite in all becoming representations and remonstrances with any and all Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and for ever.

ARTICLE X.

It is agreed that Her Britannick Majesty and the United States shall, upon mutual requisitions by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other:—provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a Warrant for the apprehension of the fugitive or person so charged, that he may be brought before such Judges or other Magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the Party who makes the requisition and receives the fugitive.

ARTICLE XI.

The Eighth Article of this Treaty shall be in force for five years from the date of the exchange of the Ratifications, and

afterwards, until one or the other Party shall signify a wish to terminate it. The tenth Article shall continue in force until one or the other of the Parties shall signify its wish to terminate it, and no longer.

ARTICLE XII.

The present Treaty shall be duly ratified, and the mutual exchange of Ratifications shall take place in London within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the ninth day of August, Anno Domini One thotsand eight hundred and forty two.

ASHBURTON.

(L.S.)

DANL. WEBSTER.

(L.S.)

ANNO SEXTO & SEPTIMO VICTORIÆ REGINÆ.

CAP. LXXVI.

An Act for giving effect to a Treaty between Her Majesty and the United States of America for the Apprehension of certain Offenders.

[22nd August 1843.]

WHEREAS by the Tenth Article of a Treaty between Her Majesty and the United States of America, signed at Washington on the ninth day of August in the year one thousand eight hundred and forty two, the Ratifications whereof were exchanged at London on the thirteenth day of October in the same year, it was agreed that Her Majesty and the said United States should, upon mutual Requisitions by them or their Ministers, Officers, or Authorities respectively made, deliver up to Justice all Persons who being charged with the crime of Murder, or Assault with Intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the Utterance of forged Paper, committed within the jurisdiction of either of the High Contracting Parties, should seek an asylum or should be found within the Territories of the other; provided that this should only be done upon such evidence of criminality

as according to the Laws of the place where the Fugitive or Person so charged should be found would justify his Apprehension and Commitment for Trial if the Crime or Offence had been there committed, and that the respective Judges and other Magistrates of the two Governments should have Power, Jurisdiction, and authority, upon Complaint made under Oath, to issue a Warrant for the Apprehension of the Fugitive or Person so charged, so that he might be brought before such Judges or other Magistrates respectively, to the end that the Evidence of Criminality might be heard and considered, and if on such Hearing the Evidence should be deemed sufficient to sustain the Charge it should be the Duty of the examining Judge or Magistrate to certify the same to the proper executive Authority, that a Warrant might issue for the Surrender of such Fugitive, and that the expense of such Apprehension and Delivery should be borne and defrayed by the party making the Requisition and receiving the Fugitive; and it is by the Eleventh Article of the said Treaty further agreed, that the Tenth Article hereinbefore recited, should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer: And whereas it is expedient that Provision should be made for carrying the said Agreement into effect, be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in case Requisition shall at any time be made by the Authority of the said United States, in pursuance of and according to the said Treaty, for the Delivery of any Person charged with the Crime of Murder, or Assault with intent to commit Murder, or with the Crime of Piracy, or Arson, or Robbery, or Forgery, or the utterance of forged Paper, committed within the Jurisdiction of the United States of America, who shall be found within the Territories of Her Majesty, it shall be lawful for One of Her Majesty's Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad for the Officer administering the Government of any such Colony or Possession, by Warrant under his Hand and Seal to signify that such Requisition has been so made, and

to require all Justices of the Peace and other Magistrates and Officers of Justice within their several Jurisdictions to govern themselves accordingly, and to aid in apprehending the Person so accused, and committing such person to Gaol, for the purpose of being delivered up to Justice, according to the provisions of the said Treaty; and thereupon it shall be lawful for any Justice of the Peace, or other Person having Power to commit for Trial Persons accused of crimes against the Laws of that Part of Her Majesty's Dominions in which such supposed Offender shall be found, to examine upon Oath any Person or Persons touching the Truth of such Charge, and upon such Evidence as according to the Laws of that Part of Her Majesty's Dominions would justify the Apprehension and Committal for Trial of the Person so accused if the Crime of which he or she shall be so accused had been there committed it shall be lawful for such Justice of the Peace, or other Person having Power to commit as aforesaid, to issue his Warrant for the Apprehension of such Person, and also to commit the Person so accused to Gaol, there to remain until delivered pursuant to such Requisition as aforesaid.

II. Provided always, and be it enacted, That in every such Case, Copies of the Depositions upon which the original Warrant was granted, certified under the Hand of the Person or Persons issuing such Warrant, and attested upon the Oath of the Party producing them to be true Copies of the original Depositions, may be received in Evidence of the Criminality of the Person so apprehended.

III. And be it enacted, That upon the Certificate of such Justice of the Peace, or other Person having Power to commit as aforesaid, that such supposed Offender has been so committed to Gaol, it shall be lawful for One of Her Majesty's Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad for the Officer administering the Government of any such Colony or Possession, by Warrant under his Hand and Seal to order the Person so committed to be delivered to such Person or Persons as shall be authorized in the Name of the said United States to receive the Person so committed, and to convey such person to the Territories of the said United States, to be tried for the Crime of which such

Person shall be so accused, and such Person shall be delivered up accordingly, and it shall be lawful for the Person or Persons authorized as aforesaid to hold such Person in Custody, and take him or her to the Territories of the said United States, pursuant to the said Treaty; and if the Person so accused shall escape out of any Custody to which he or she shall be committed, or to which he or she shall be delivered as aforesaid, it shall be lawful to retake such Person, in the same Manner as any Person accused of any Crime against the Laws of that Part of Her Majesty's Dominions to which he or she shall so escape may be retaken upon an Escape.

IV. And be it enacted, That where any Person who shall have been committed under this Act, to remain until delivered up pursuant to Requisition as aforesaid, shall not be delivered up pursuant thereto, and conveyed out of Her Majesty's Dominions within two Calendar Months after such Committal, over and above the Time actually required to convey the Prisoner from the Gaol to which he or she was committed, by the readiest way out of Her Majesty's Dominions, it shall in every such case be lawful for any of Her Majesty's Judges in that Part of Her Majesty's Dominions in which such supposed Offender shall be in custody, upon application made to him or them, by or on behalf of the Person so committed, and upon Proof made to him or them that reasonable Notice of the Intention to make such Application has been given to some or One of Her Majesty's Principal Secretaries of State, or in Ireland to the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad, to the Officer administering the Government of any such Colony or Possession, to order the Person so committed to be discharged out of Custody, unless sufficient cause shall be shewn to such Judge or Judges why such Discharge ought not to be ordered.

V. And be it enacted, That if by any Law or Ordinance to be hereafter made by the local Legislature of any British Colony or Possession abroad, Provision shall be made for carrying into complete Effect within such Colony or Possession the Objects of this present Act, by the Substitution of some other Enactment in lieu thereof, then it shall be competent to Her Majesty, with the Advice of Her Privy Council, (if to Her

Majesty in Council it shall seem meet, but not otherwise,) to suspend the operation within any such Colony or Possession of this present Act, so long as such substituted Enactment shall continue in force there, and no longer.

VI. And be it enacted, That this Act shall continue in force during the continuance of the Tenth Article of the said Treaty.

TREATY

BETWEEN HER MAJESTY AND THE UNITED STATES OF AMERICA,

&c. &c. &c.

Signed at Washington, June 5, 1854.

[Ratifications exchanged at Washington, September 9, 1854.]

Her Majesty, the Queen of Great Britain, being equally desirous with the Government of the United States to avoid further misunderstanding between their respective Subjects and Citizens, in regard to the extent of the right of Fishing on the Coasts of British North America, secured to each by Article I. of a Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, and being also desirous to regulate the Commerce and Navigation between their respective Territories and People, and more especially between Her Majesty's Possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named Plenipotentiaries to confer and agree thereupon, that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, James Earl of Elgin and Kincardine, Lord Bruce and Elgin, a Peer of the United Kingdom, Knight of the Most Ancient and Most Noble Order of the Thistle, and Governor General in and over all Her Britannic Majesty's Provinces on the Continent of North America, and in and over the Island of Prince Edward; and the President of the United States, William L. Marcy, Secretary of State of the United States, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

ARTICLE I.

It is agreed by the High Contracting Parties, that in addition to the liberty secured to the United States Fishermen by the above mentioned Convention of October 20, 1818, of taking, curing, and drying fish on certain Coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several Islands thereunto adjacent, without being restricted to any distance from the shore; with permission to land upon the coasts and shores of those Colonies and the Islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coast in their occupancy for the same purpose.

It is understood that the above mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers, and the mouths of rivers, are hereby reserved exclusively for British fishermen.

And it is further agreed, that in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen contained in this Article, and that of fishermen of the United States contained in the next succeeding Article, apply, each of the High Contracting Parties, on the application of either to the other, shall, within six months thereafter, appoint a Commissioner. The said Commissioners before proceeding to any business, shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under this and the next succeeding Article; and such declaration shall be entered on the record of their proceedings. The Commissioners shall name some third person to act as an Arbitrator or Umpire in any case or cases on which they may

themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the Arbitrator or Umpire in cases of difference or disagreement between the Commissioners. The person so to be chosen to be Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of either of the Commissioners, or of the Arbitrator or Umpire, or of their or his omitting, declining, or ceasing to act as such Commissioner, Arbitrator or Umpire, another and different person shall be appointed or named as aforesaid to act as such Commissioner, Arbitrator or Umpire, in the place and stead of the person so originally appointed or named as aforesaid, and shall make and subscribe such declaration as aforesaid.

Such Commissioners shall proceed to examine the Coasts of the North American Provinces, and of the United States, embraced within the provisions of the first and second Articles of this Treaty, and shall designate the places reserved by the said Articles from the common rights of fishing therein.

The decision of the Commissioners and of the Arbitrator or Umpire shall be given in writing in each case, and shall be signed by them respectively.

The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him, respectively.

ARTICLE II.

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shell-fish, on the eastern sea coasts and shores of the United States, north of the 36th parallel of north latitude, and on the shores of the several Islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea coasts and shores of the United States and of the said Islands, without being restricted

to any distance from the shore, with permission to land upon the said coasts of the United States and of the Islands aforesaid, for the purpose of drying their nets and curing their fish ; provided that in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said Coasts in their occupancy for the same purpose.

It is understood that the above mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all fisheries in rivers and mouths of rivers, are hereby reserved exclusively for the fishermen of the United States.

ARTICLE III.

It is agreed, that the articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British Colonies or of the United States, shall be admitted into each Country respectively free of duty :—

SCHEDULE.

Grain, Flour, and Breadstuffs of all kinds ;
Animals of all kinds ;
Fresh, Smoked, and Salted Meats ;
Cotton Wool, Seeds, and Vegetables ;
Undried Fruits, Dried Fruits ;
Fish of all kinds ;
Products of fish and of all other creatures living in the water ;
Poultry, Eggs ;
Hides, Furs, Skins, or Tails undressed ;
Stone or Marble in its crude or unwrought state :
Slate ;
Butter, Cheese, Tallow ;
Lard, Horns, Manures ;
Ores of Metals of all kinds ;
Coal ;
Pitch, Tar, Turpentine, Ashes ;
Timber and Lumber of all kinds, round, hewed, sawed, unmanufactured in whole or in part ;
Firewood ;
Plants, Shrubs, and Trees :
Pelts, Wool ;
Fish Oil ;
Rice, Broom Corn, and Bark ;

Gypsum, ground or unground ;
Hewn or wrought or unwrought Burr or Grindstones ;
Dye Stuffs ;
Flax, Hemp, and Tow, unmanufactured ;
Unmanufactured Tobacco ;
Rags.

ARTICLE 4.

It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the River Saint Lawrence and the Canals in Canada, used as the means of communicating between the Great Lakes and the Atlantic Ocean, with their vessels, boats, and crafts, as fully and freely as the subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects, it being understood, however, that the British Government retains the right of suspending this privilege on giving due notice thereof to the Government of the United States.

It is further agreed, that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of Article III. of the present Treaty in so far as the Province of Canada is affected thereby, for so long as the suspension of the free navigation of the River Saint Lawrence or the canals may continue.

It is further agreed, that British subjects shall have the right freely to navigate Lake Michigan with their vessels, boats, and crafts, so long as the privilege of navigating the River Saint Lawrence secured to American citizens by the above clause of the present Article shall continue, and the Government of the United States further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty, the use of the several State Canals on terms of equality with the inhabitants of the United States.

And it is further agreed, that no export duty or other duty shall be levied on lumber or timber of any kind, cut on that portion of the American territory in the State of Maine, watered by the River Saint John and its tributaries, and floated down that River to the sea, when the same is shipped to the United States from the Province of New Brunswick.

ARTICLE V.

The present Treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain, and by the Provincial Parliaments of those of the British North American Colonies which are affected by this Treaty on the one hand, and by the Congress of the United States on the other. Such assent having been given, the Treaty shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

It is clearly understood, however, that this stipulation is not intended to affect the reservation made by Article IV. of the present Treaty with regard to the right of temporarily suspending the operation of Article III. and IV. thereof.

ARTICLE VI.

And it is hereby further agreed, that the provisions and stipulations of the foregoing Articles shall extend to the Island of Newfoundland, so far as they are applicable to that Colony. But if the Imperial Parliament, the Provincial Parliament of Newfoundland, or the Congress of the United States, shall not embrace in their laws enacted for carrying this Treaty into effect, the Colony of Newfoundland, then this Article shall be of no effect, but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair the remaining Articles of this Treaty.

ARTICLE VII.

The present Treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in Washington, within six months from the date hereof, or earlier if possible.

In faith whereof, We, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our Seals.

Done in triplicate, at Washington, the fifth day of June, Anno Domini one thousand eight hundred and fifty four.

(Signed)

ELGIN & KINCARDINE. [L. S.]
W. L. MARCY, [L. S.]

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In Polling Places—

For Lancaster, page 128, see substitute, page 62.

Glenelg, page 129, see page 153-4.

Hampstead and Waterborough, page 130, see page 62.

Gloucester, page 130, see page 61.

Hemp Act expired, pages 219, 220, & 221.

For "venire" read "venue," see page 410, 6th line.

In Index, page ii, under "Assembly, Electors," the two last lines—

"before select committee of House, 150,"

"for voting without qualification, 150,"

should be under "Evidence," next page.

